

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA .
vs. . H-10-CR-368
. HOUSTON, TEXAS
. NOVEMBER 7, 2011
. 11:03 A.M.
BARRY WALTER BUJOL, JR. .
.

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE DAVID HITTNER
UNITED STATES DISTRICT JUDGE
VOLUME 1

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General Order 94-15, United States District Court,
Southern District of Texas.

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11:03

1

P R O C E E D I N G S

2

THE COURT: Thank you. Please be seated.

3

4

The Court calls the case Criminal Matter 10-368,
United States versus Barry Walter Bujol, Jr.

11:04

5

Who represents the government?

6

7

MR. McINTYRE: Mark McIntyre for the United States,
your Honor, along with --

8

THE COURT: Hold it.

9

11:04

10

11

MR. McINTYRE: -- along with Craig Feazel from the US
Attorney's Office and also Garrett Heenan with the Department
of Justice.

12

13

THE COURT: All right. Who else is at your table,
please?

14

11:04

15

MR. McINTYRE: Got the case agent, your Honor, Bryan
Cannon.

16

THE COURT: Agency?

17

MR. McINTYRE: FBI, your Honor.

18

THE COURT: Okay.

19

11:04

20

21

MR. McINTYRE: And joint task force agent Sean
McCarroll and I also have my paralegal Patrice Warren, your
Honor.

22

23

24

THE COURT: Okay. One question that was raised I
didn't address beforehand as far as our scheduling goes -- you
can be seated.

11:04

25

Mr. Bujol inquired about the ability of prayer

1 sessions. I take -- I get underway at 10:00 every morning. We
2 will take a break at -- as I say, at 1:00 o'clock to 2:15. I
3 take a break about 3:45. So, for -- during that hour and a
4 half lunch break -- hour and a quarter lunch break and the
5 3:45 break, and then at 6:00 o'clock, I hope he can fit his
6 prayer sessions in. That's probably the best we can do for
7 just the next few days as we proceed here.

8 We're also attending to Mr. Bujol's request
9 relative to a computer. So, that's on its way and -- if you
10 see folks working with the computers in here while we're
11 underway.

12 I have some motions that I want to go over
13 briefly, and we're getting right underway. I'm going to give
14 the government about 15 minutes, initially, to give me an
15 opening statement.

16 Also, I want to acknowledge the presence of
17 Mr. Edward Mallett. Just for the record, Mr. Mallett, you are
18 present, correct?

19 MR. MALLET: Good morning, your Honor.

20 THE COURT: And -- as standby counsel. And I
21 appreciate your assistance there, if and when it's needed, as
22 is requested, you know, your counsel -- if your former client
23 wants to avail himself of it.

24 So, I'll hear about a 15 minute opening statement
25 from the government.

1 Now, this is for Mr. Bujol, not being an
2 attorney, just for his overview.

3 An opening statement is merely an overview or a
4 road map of what the evidence will show. You cannot argue your
5 case during an opening statement.

6 The government will go first. They've got the
7 burden of proof. I'm going to ask you do you want to make an
8 opening statement, and you'll have 15 minutes to give me what
9 you say the evidence will show, if you want to. You can also
10 reserve that to your part of the case if you desire to put a
11 case on.

12 But I'll say it one last time: You certainly
13 have a Fifth Amendment right not to state anything whatsoever
14 in this case, to ask any questions -- although you're free to
15 do so, of course -- or to make any statement or testimony
16 yourself. And we've discussed that at length. It's certainly
17 on the record in detail, when you were -- before I dismissed
18 your counsel and before you decided to go non-jury.

19 There are a number of matters I do want to get to
20 here. First of all, there's the government's motion to admit
21 their evidence under local Rule of Criminal Procedure 55 --
22 55.2. That's granted.

23 Mr. Bujol has some motions. A motion to strike
24 surplusage for -- and for a bill of particulars. That motion
25 is denied.

11:07 1 Motion -- in effect, a Rule 12(b)(4)(B)
2 designation of evidence. Based upon the government's response,
3 the defendant's motion is denied as moot. The government has a
4 full response in there.

11:08 5 There's Mr. Bujol's motion for the government to
6 give notice of intention to use evidence of other crimes,
7 wrongs, or whatever, under Federal Rule of Criminal Procedure
8 404(b). There is a response on file.

9 If I'm incorrect, somebody correct me. All
11:08 10 right?

11 There's a response on file. Based upon the
12 response, that's denied.

13 Now, there's a motion to exclude audio and video
14 recordings. I want to hold that for a moment. I'm going to go
11:08 15 back to that motion in a moment.

16 There's also a motion for hearing on expert
17 testimony. At this time, right now, that motion is denied
18 without prejudice to either party raising that objection again
19 at the appropriate time. So, I'm denying it at this time but
11:08 20 without prejudice to renewing it if either side feels it's
21 necessary during the trial.

22 Now, as far as the transcripts go, I understand
23 that there are some transcripts -- some in English and some in
24 Arabic. Is that correct, Mr. McIntyre?

11:09 25 MR. MCINTYRE: Some of the audio is in Arabic. It's

11:09 1 been translated, your Honor.

2 THE COURT: That's correct.

3 Now, Mr. Bujol, I'm going to give myself -- since
4 I'm both the judge and the jury, I'm going to read the
11:09 5 instruction that I have given over the years for transcripts
6 that are some all in English and some even in a foreign
7 language. So, I'm just going to read it into the record that,
8 being the trier of fact as well as the law, I'm familiar with
9 this.

11:09 10 But this is the instruction I would routinely
11 give if a defendant objected, as you have, to the accuracy or
12 the -- whether or not it's intelligible or not. So, this is
13 what a jury would get. I'm going to read it in as an abundance
14 of caution. This is what I usually give to a jury. So, I'm
11:10 15 not necessarily giving it to myself but just stating that I
16 fully understand and I recognize it.

17 Numerous transcripts of tape recorded
18 conversations, including translations from a foreign language
19 into English, have been admitted into evidence. The
11:10 20 transcripts also purport to identify the speakers engaged in
21 such conversations. A transcript is evidence of what is
22 recorded on an audio tape or video tape just as the tape is
23 evidence of what was said in the original conversation.

24 I have admitted the transcripts for the limited
11:10 25 and secondary purpose of aiding the trier of fact in following

11:10 1 the content of the conversations as I listen to the tape
2 recordings, particularly those portions that are spoken in a
3 foreign language, and also to aid in identifying the speakers.

4 The trier of fact is specifically instructed that
11:11 5 whether the transcripts correctly or incorrectly reflect the
6 content of the conversations or the identity of the speakers is
7 entirely up to the trier of fact to determine based upon his or
8 her own examination of the transcripts in relation to the trier
9 of fact's hearing of the tape recordings themselves, which are
11:11 10 the primary evidence of their own content.

11 And if the trier of fact should determine that a
12 transcript is in any respect incorrect or unreliable, the trier
13 of fact should disregard it to that extent. And I intend to do
14 that as the trier of fact.

11:11 15 I entered the word "trier of fact" instead of the
16 word "jury," because it's usually "jury."

17 I have a timer up here. I'm going to keep track
18 of the time.

19 By the way, anybody is free to go in and out of
11:11 20 the courtroom any time if you want. The facilities, restrooms,
21 are down the hall. Mr. Bujol will have access to the jury
22 room.

23 You have 15 minutes for an opening statement as
24 to what you say the evidence will show in this case.

11:12 25 Mr. Heenan -- is that how you pronounce your

1 name, sir?

2 MR. HEENAN: It's "Heenan," your Honor --

3 THE COURT: "Heenan," yes, sir.

4 MR. HEENAN: -- Garrett Heenan. I'm trial attorney
5 with the counter terrorism section of the Department of
6 Justice.

7 Your Honor, I will be brief, probably briefer
8 than the 15 minutes you've allotted.

9 Late in 2008, the FBI learned that the defendant,
10 Mr. Barry Walter Bujol, had used an e-mail account,
11 Abdul_Bari05@Yahoo.com, and that he had used that e-mail
12 account to communicate with Anwar Awlaki. Anwar Awlaki was a
13 United States citizen, now deceased, who was publicly
14 associated with al-Qaeda in the Arabian Peninsula, the Yemen
15 based affiliate of al-Qaeda. And he was associated with that
16 organization at the time that Mr. Bujol communicated with him.

17 The evidence will show that Mr. Bujol e-mailed
18 al-Awlaki seeking guidance regarding jihad. The evidence will
19 further show that Anwar al-Awlaki responded to Mr. Bujol's
20 request for guidance by e-mailing a terrorist manifesto
21 entitled "42 Ways of Supporting Jihad" which instructs on how
22 to support violent jihad and the fighters that carry it out.

23 The evidence will further show that Mr. Bujol
24 sent follow-up e-mails to Anwar Awlaki, expressing gratitude
25 and stating his intention to assist the holy warriors, known as

1 the "mujahideen."

2 Now, after receiving this guidance from a known
3 al-Qaeda cleric --

4 THE COURT: Oh, wait a second. Hold it. Before we
5 even begin, we need to take a -- we need to take -- would you
6 summarize the indictment?

7 We got to remember that.

8 MR. HEENAN: I will, your Honor.

9 THE COURT: So --

10 MR. HEENAN: Would the Court prefer that I read it in
11 it's entirety?

12 THE COURT: How long is it?

13 MR. HEENAN: It's three pages.

14 THE COURT: No.

15 Mr. Bujol, is it okay if he summarizes it? Then
16 I ask you how you plead, guilty or not guilty?

17 You'll give me your plea; and then we can go
18 ahead. May he summarize it?

19 THE DEFENDANT: Summarize it.

20 THE COURT: Okay.

21 MR. HEENAN: Your Honor, the defendant is charged in a
22 two-count indictment. Count 1 charges that on or about
23 May 30th, 2010, that the defendant unlawfully and knowingly
24 attempted to provide material support or resources, as that
25 term is defined in the United States Code. Specifically, he

11:14 1 intended to provide personnel, his person, currency, prepaid
2 telephone calling cards, mobile telephone SIM cards, global GPS
3 receivers, public access restricted US military publications,
4 including one that involved unmanned aerial vehicle operations,
11:14 5 and one that involved the effects of US military weapons in
6 Afghanistan, and additional items; and that the defendant
7 attempted to provide these materials to a foreign terrorist
8 organization, specifically al-Qaeda in the Arabian Peninsula,
9 which was designated as a foreign terrorist organization on
11:15 10 January 19th, 2010, and remains designated to this day.

11 In the second count of the indictment, the
12 defendant is charged with, on or about May 30th, 2010, during
13 and in relation to the crime charged in Count 1, knowingly
14 possessing and using without lawful authority a false
11:15 15 identification document, specifically a false Transportation
16 Worker's Identification Card, a TWIC, issued by the
17 Transportation Security Administration of the Department of
18 Homeland Security.

19 THE COURT: All right. Mr. Bujol, as to both of those
11:15 20 counts, sir, how do you plead: guilty or not guilty?

21 THE DEFENDANT: Not guilty.

22 THE COURT: Thank you, sir.

23 All right. I'm now going to continue your time.
24 Sorry for that interruption. It just occurred to me. Anything
11:15 25 like that occurs to you, please let me know. Especially in a

1 non-jury case, we can have a little colloquy back and forth any
2 time on things like that.

3 All right. You've used two minutes and 13
4 seconds so far. You got plenty of time. Go on.

5 MR. HEENAN: Thank you, your Honor.

6 Your Honor, as I mentioned, Mr. Bujol, using the
7 Abdul_Bari05 Yahoo! account, had e-mailed Anwar al-Awlaki
8 seeking guidance for jihad.

9 Al-Awlaki responded to Mr. Bujol by providing a
10 manifesto, a terrorist manifesto, "42 Ways of Supporting
11 Jihad." And Mr. Bujol followed that up by responding back
12 expressing gratitude for those materials and stating his
13 intention to assist the holy warriors known as the
14 "mujahideen."

15 Now after receiving that guidance from Anwar
16 al-Awlaki, a known al-Qaeda cleric, the evidence will show that
17 Mr. Bujol set upon a plan to leave the United States and travel
18 to Yemen. Three times he set out to depart the United States,
19 and three times he was foiled by law enforcement authorities.

20 The first time, February 15th, 2009, the
21 defendant traveled with his family, his wife, to the George
22 Bush International Airport [sic]. At that time he had airplane
23 tickets to travel to Yemen. The evidence will show the FBI was
24 aware of his actions and he was under surveillance. He did
25 have an outstanding arrest warrant, and he was arrested and

1 prevented leaving the United States at that time.

2 THE COURT: Where was the arrest made?

3 MR. HEENAN: The arrest was made at the George Bush
4 International Airport [sic] in Houston.

5 THE COURT: Okay.

6 MR. HEENAN: Second attempt the defendant made to get
7 out of the United States was March 21st, 2009. The defendant
8 and his wife and an infant child had traveled up to the border
9 of -- Canada -- border between Detroit and Windsor, Canada.

10 THE COURT: Windsor, Ontario.

11 MR. HEENAN: Windsor, Ontario, your Honor.

12 The defendant made application to the Canadians
13 at the port of entry. The defendant was traveling in a bus,
14 and the defendant's wife was traveling separately in a vehicle.
15 They both made separate application at the Canadian port to
16 enter Canada. They both -- you will hear from a Canadian
17 border guard who took statements from the defendant's wife as
18 well as the defendant. They gave conflicting stories.
19 Ultimately, they were denied entry into Canada.

20 Four days after that, March 25th, 2009, the
21 defendant was arrested in New Jersey while driving on a
22 suspended license. He would later say that he was traveling to
23 the JFK Airport in New York to try to fly to the Middle East.
24 Three separate attempts to leave the United States, all three
25 attempts foiled. The defendant, after those unsuccessful

11:18 1 efforts, returned to Prairie View, Texas.

2 Now, later in 2009 the FBI successfully
3 introduced a confidential human source, an undercover
4 informant, who befriended the defendant. Now, you will hear
11:19 5 from this confidential human source. He was experienced --

6 THE COURT: Is that source coming here personally?

7 MR. HEENAN: He will be here personally, your Honor,
8 testifying. There will be some -- as I think the Court is
9 aware, there are some precautions that the government has asked
11:19 10 be taken.

11 THE COURT: Such as? A screen -- a screen put up?

12 MR. HEENAN: A screen for the courtroom; and we've
13 asked your Honor for him to use a private entrance as opposed
14 to a public entrance, to protect his identity.

11:19 15 THE COURT: All this has been arranged ahead of time?

16 MR. HEENAN: Yes, your Honor.

17 THE COURT: Go ahead.

18 MR. HEENAN: And the testimony you will hear from the
19 source is that he is experienced, that he knew how to work as
11:19 20 an undercover and knew the parameters of this investigation.
21 And you'll also hear that he was instructed not to make
22 suggestions to Mr. Bujol but rather to key off what it was that
23 Mr. Bujol wanted to do and let Mr. Bujol lead the relationship
24 in terms of what his desires and intentions were.

11:19 25 Now, as this relationship developed and

1 progressed, Mr. Bujol shared his radical jihadist beliefs with
2 the source. He also shared his desire to travel to Yemen.

3 The CHS, for his part --

4 THE COURT: "CHS"?

5 MR. HEENAN: When I say "CHS," your Honor, I mean the
6 confidential human source or the source, the undercover,
7 working for the FBI. The CHS, or the confidential human
8 source, revealed his cover story to Mr. Bujol. And his cover
9 story was that he was a facilitator for al-Qaeda in the Arabian
10 Peninsula.

11 Your Honor, you will hear audio tapes, because
12 the meetings between the CHS, the confidential human source,
13 and the defendant were recorded. We have audio for all of them
14 and audio and video for many of them. You'll hear audio tapes
15 that the first thing Mr. Bujol said when he heard from the CHS,
16 when the source told Mr. Bujol that he worked for al-Qaeda in
17 the Arabian Peninsula, the defendant offered praise to God.

18 After Mr. Bujol was informed the CHS, the source,
19 worked for al-Qaeda in the Arabian Peninsula, Mr. Bujol started
20 providing all manner of advice and materials to the source,
21 that Mr. Bujol believed would be helpful to al-Qaeda, including
22 finding US Army military manuals on the Internet, finding
23 complaint affidavits from other sting operation cases, that he
24 gave to the source, essentially saying, the evidence will show,
25 "This is how they try to catch the brothers. This is how they

1 try to catch terrorists within the United States."

2 The evidence will also show that the defendant
3 would communicate the location of US air bases to the source,
4 where military combat drones are piloted, and suggest that that
5 is an area that the al-Qaeda in the Arabian Peninsula should
6 consider, attacking those drones where the pilots are, where
7 the drones are flown.

8 Now, this relationship was ongoing between
9 Mr. Bujol and the CHS; but it did culminate in -- May 30th of
10 2010, in a controlled sting operation that was conducted by the
11 FBI. Mr. Bujol and the source had agreed on a plan to smuggle
12 Mr. Bujol out of the country via a freight ship that was docked
13 at the Port of Houston.

14 The evidence will show that the defendant,
15 Mr. Bujol, willingly supplied the CHS, the source, with
16 passport photos and a false name so that the source could
17 obtain a false Transportation Worker Identity Card, the card
18 that's charged in Count 2 of the indictment, that the defendant
19 would then use to access the port of entry. The evidence will
20 show the defendant received that card and he did in fact
21 possess it and use it when accessing the Port of Houston on
22 May 30th, 2010.

23 The evidence will further show that Mr. Bujol
24 agreed to courier multiple items that he believed he would
25 deliver to al-Qaeda in the Arabian Peninsula overseas. I

1 mentioned with the arraignments for the defendant at the
2 beginning of the opening statement, in Count 1 there were
3 multiple items, any number of which constitute material
4 support.

5 Clearly, he wanted to deliver himself to al-Qaeda
6 in the Arabian Peninsula; but the evidence will also show he
7 carried multiple other items, several of which could be
8 considered material support items: restricted access military
9 manuals, euro currency, multiple GPS devices, prepaid telephone
10 cards, all materials that are -- materially could support the
11 al-Qaeda in the Arabian Peninsula organization.

12 Shortly after boarding the ship, your Honor,
13 alone, with the items that he couriered, the FBI concluded the
14 sting operation and arrested Mr. Bujol.

15 Now, based on the evidence that the Court will
16 hear, we will return, your Honor, at the close of evidence in
17 this case and we'll ask you to return the only appropriate and
18 logical verdict in this case; and that is that the defendant,
19 Mr. Bujol, is guilty of both counts in the indictment.

20 THE COURT: Thank you.

21 MR. HEENAN: Thank you.

22 THE COURT: Mr. Bujol, do you desire to make an
23 opening statement, sir?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Pull that microphone in,

11:24 1 please. Just pull it in. Can you pull the unit towards you?

2 THE DEFENDANT: What about that?

3 THE COURT: Yes, that's fine.

4 You've got 15 minutes. Go right ahead.

11:24 5 THE DEFENDANT: Okay. I'll start from the indictment,
6 kind of work my way through.

7 THE COURT: What will -- keep in mind it's what will
8 the evidence show.

9 THE DEFENDANT: Exactly.

11:24 10 The evidence in this case will demonstrate that I
11 did have radical Islamic views. I was interested in leaving
12 the United States of America. However, my desire to leave the
13 United States of America was not to commit acts of terrorism,
14 to harm the United States nationals here or abroad. It was
11:24 15 simply to express my discontent and displeasure, with my tax
16 dollars and what I was doing as a citizen, contributing to
17 foreign policy objectives that I didn't agree with.

18 So, the evidence will show that this intent was
19 stated repeatedly throughout the transcripts, throughout the
11:25 20 audio recordings. I expressed a desire to increase my Islamic
21 knowledge, to increase my Arabic knowledge, to purify myself
22 and become a better Muslim and part of that involved living in
23 an Islamic environment, raising my children in an Islamic
24 environment. I had no intention, the evidence will show, of
11:25 25 attacking anyone.

11:25 1 Furthermore, as we go through the evidence, it
2 will demonstrate that it was the CHS who suggested that he
3 wanted me to join al-Qaeda. I never spoke of al-Qaeda. I
4 never praised al-Qaeda's operations in Yemen, but it was the
11:26 5 CHS who sort of hoped for me, that that was something he wanted
6 me to do. But I was simply trying to leave the country. After
7 which the CHS provided a TWIC from a name he used --

8 THE COURT: What's a TWIC?

9 THE DEFENDANT: Text Worker Identification Credential.
11:26 10 That's the identification card I possessed.

11 THE COURT: All right. Go on.

12 THE DEFENDANT: The CHS produced the card with a name
13 that I used in one of the e-mails. I didn't tell him to use
14 that name. I didn't request it. He used it of his own to
11:26 15 further this operation. And the evidence will show that not
16 only did I not know he was going to use the name, I didn't even
17 think the name used would be suitable because it's -- it's a
18 Hispanic name. So, we even talked about whether or not that
19 would even be a viable name to use.

11:27 20 After that, on the night of -- on the night in
21 question, rather than me providing the material support myself,
22 I didn't know of anything that was going to be sent, to whom it
23 was being sent to, where it was being -- where it was going.
24 And the evidence will show that this man asked me to be,
11:27 25 essentially, a custodian over items he was going to send to his

1 friend. He's essentially turning me into a hot-shot delivery
2 guy, except for I'm not getting paid.

3 So, what the evidence will show is that that's
4 what actually transpired. I didn't participate in any of the
5 procurement of these items. I didn't select them; I didn't
6 purchase these items; I didn't give him money or -- I didn't
7 give him anything. It was simply a last minute, last ditch
8 effort to get me to pass these items to someone that I don't
9 even know, to further this operation. And that's what the
10 evidence will show.

11 THE COURT: Thank you.

12 Government, call your first witness.

13 MR. MCINTYRE: Your Honor, the government would call
14 Bryan Cannon, of the Federal Bureau of Investigation.

15 THE COURT: Yes, sir. Raise your right hand, be
16 sworn.

17 THE CASE MANAGER: Do you solemnly swear that the
18 testimony you're about to give in the case now before the Court
19 will be the truth, the whole truth and nothing but the truth?

20 THE WITNESS: I do.

21 THE COURT: Okay. Have a seat, please.

22 Pull the microphone up a little bit.

23 That will be fine. All right.

24 - - - - -

1 **BRYAN CANNON, GOVERNMENT'S WITNESS, TESTIFIED:**

2 **DIRECT EXAMINATION**

3 BY MR. MCINTYRE:

4 Q. State your name for the record, please.

11:29 5 A. My name is Bryan, B-R-Y-A-N, S. Cannon, C-A-N-N-O-N.

6 Q. And, Agent Cannon, where are you currently employed?

7 A. I'm employed with the FBI in the Houston division, the
8 Bryan resident agency, part of the Joint Terrorism Task Force.

9 Q. What is the Joint Terrorism Task Force?

11:29 10 A. It's a group of multiple agencies, headed by the FBI,
11 charged with investigating acts of international terrorism,
12 domestic terrorism, gathering intelligence. Our number one
13 goal is to prevent acts of terrorism or any acts that would
14 support terrorists.

11:29 15 Q. How long have you been employed in Bryan, Texas, with the
16 Joint Terrorism Task Force?

17 A. A little over four years.

18 Q. Now, prior to working with the Joint Terrorism Task Force
19 in Bryan, Texas, did you work in any other location for a Joint
11:30 20 Terrorism Task Force?

21 A. Yes. For just under four years, I was assigned to the
22 Bakersfield, California, Joint Terrorism Task Force, which is
23 part of the Sacramento division of the FBI. And prior to my
24 joining the FBI, I was what we called a "task force officer,"
11:30 25 which is a deputized non-FBI person assigned to a JTTF, in

11:30

1 Austin and also in Houston.

2 Q. And have you had few or many occasions to investigate and
3 become familiar with terrorism matters?

4 A. Many.

11:30

5 Q. And have you previously testified in court proceedings,
6 regarding espionage or terrorism matters?

7 A. Yes.

8 Q. And on how many occasions?

9 A. Two.

11:30

10 Q. Now, prior to joining the FBI, you went to college. Is
11 that correct?

12 A. Yes, sir.

13 Q. And when and where did you graduate from college?

14 A. I graduated in August of 1995, Stephen F. Austin State
15 University in Nacogdoches.

11:31

16 Q. And what did you major in at Stephen F. Austin?

17 A. Had a double major: political science and history.

18 Q. Now, during the time period that you attended Stephen F.
19 Austin, did you participate in the ROTC?

11:31

20 A. Yes, sir.

21 Q. What is the ROTC?

22 A. It's Reserve Officer Training Corps. It's a program you go
23 through in college in order to be commissioned into a branch of
24 service, and I was in the branch of army.

11:31

25 Q. During the time period that you were a member of the ROTC,

1 did you receive any sort of specialized or particular army
2 training?

3 A. Yes. On multiple occasions, over the summers, we would be
4 sent to multiple military bases for training, one of which was
5 the airborne school in Fort Benning, Georgia.

6 Q. And did you receive credentials from the airborne school in
7 Fort Benning, Georgia? Is that correct?

8 A. Yes.

9 Q. Now, after you graduated from college, were you
10 commissioned into the army?

11 A. Yes, sir.

12 Q. What day were you commissioned into the army?

13 A. On the day of my graduation.

14 THE COURT: What branch? What was your branch?

15 THE WITNESS: Infantry branch, detailed to MI.

16 THE COURT: Okay.

17 BY MR. MCINTYRE:

18 Q. So, you were commissioned the day you graduated from
19 Stephen F. Austin. Is that correct?

20 A. Yes, sir.

21 Q. And once you join the army, what sort of -- or where did
22 they send you for training in regards to the army?

23 A. My first assignment was there at the university, to help
24 assist recruiting new cadets. Then I went to Fort Benning,
25 Georgia, to attend a number of infantry schools designed for

11:32 1 new officers, to include ranger school and other combat
2 courses.

3 Q. And did you complete the ranger training in order to become
4 an army ranger?

11:32 5 A. Yes, sir.

6 Q. And when were you commissioned or dedicated to be an army
7 ranger?

8 A. February 1997.

9 Q. Were there other training or commendations that you
11:33 10 received in the army during the time period that you were in
11 the army before you joined the FBI?

12 A. Yes, sir.

13 Q. What were those other training commendations?

14 A. As you progress in the army as an officer, you go to
11:33 15 additional schools related to whatever job you have at the
16 time. So, I completed schools in Fort Benning, Fort Lewis,
17 Fort Huachuca, Fort Hood, received numerous medals. And I left
18 the army as a captain. So, I was promoted twice.

19 Q. What sort of medals or commendations did you receive while
11:33 20 you were in the army?

21 A. Achievement medals, commendation medals, meritorious
22 service medals for assignments I completed.

23 Q. Did you have any training in military intelligence while
24 you were within the army?

11:33 25 A. Yes, sir. In 1999, the program I was in -- as I started as

11:33 1 infantry officer, all along your parent branch is what's called
2 military intelligence. So, at that point, I was sent back to
3 my parent branch, which was military intelligence, to receive
4 my training. And I spent approximately a year at Fort
11:34 5 Huachuca, attending three military intelligence courses.

6 Q. And what sort of activity did you do in regard to military
7 intelligence while you were in the army?

8 A. Following the final course I took at Fort Huachuca, which
9 was a course -- a counterintelligence course, at the end of
11:34 10 which you become a counterintelligence agent with credentials
11 and certain duties and responsibilities in the army, I was sent
12 to Fort Hood, where I was an intelligence officer for a
13 brigade. And then, after that, I was a commander of a military
14 intelligence detachment in Fort Hood.

11:34 15 Q. Now, in July of 2008, did you --

16 THE COURT: Excuse me one second.

17 *(Court confers with court staff)*

18 THE COURT: All right. Go right ahead.

19 BY MR. MCINTYRE:

11:35 20 Q. In July 2008 did you receive an investigative lead
21 regarding an IP address and also an e-mail address?

22 A. Yes, sir.

23 Q. And can you tell the Court what is an "IP address"?

24 A. In layman's terms, it's "internet protocol address"; and it
11:35 25 identifies a particular computer and how it registers when it

1 enters the Internet.

2 Q. Okay. And what was the e-mail address that you received
3 the lead on, and where was the IP address located that you
4 received the lead on?

5 A. The e-mail address was Abdul -- A-B-D-U-L --
6 _Bari05@Yahoo.com. And the IP address resolved back to Prairie
7 View A~&~M University, which is within one of the counties that
8 the JTTF that I am on covers.

9 Q. So, that's why you were given the investigative lead, is
10 because it occurred in your area. Is that correct?

11 A. Yes, sir.

12 Q. All right. Once you received this information, what is the
13 next investigative step that you took?

14 A. After we go through the process to actually open a case, I
15 traveled to Prairie View A~&~M University. I was not that
16 familiar with it. I talked to different people on the campus
17 just to get an idea how the IP addresses worked, where the
18 computers are located, how one goes about obtaining access to a
19 computer. Also, because it's in one of our counties, one of
20 the steps that we take is to find out if there's any other kind
21 of unresolved or even unreported activities that the police may
22 think may be involved in terrorism. So, I did all those over
23 the course of next two or three days after receiving the lead.

24 Q. And in regards to the IP address you had the lead on, did
25 you learn that it resolved not only to Prairie View but a

1 particular bank of elevators [sic] at Prairie View University?

2 A. Yes. I spoke with someone at the systems administration,
3 that deals with computers, and found out that the IP address,
4 on the date in question, that was on the lead, resolved back to
5 the John Coleman Library, which is the main library on campus.

6 They were unable to determine exactly what
7 computer it was, but they were able to narrow it down to one
8 set of computers on the first floor of the Coleman Library.

9 Q. And how many computers were on the first floor of the
10 Coleman Library that they were able to resolve this IP address
11 back to?

12 A. I believe it was 22 or 24, in a -- one common area.

13 Q. Now, around this same time period, did you become familiar
14 with the Prairie View campus and a place called the All Faiths
15 Chapel?

16 A. Yes, sir.

17 Q. What did you learn about the All Faiths Chapel at Prairie
18 View A~&~M University?

19 A. I found it's located adjacent to the Coleman Library, no
20 more than 30 yards, connected by a sidewalk. I found out that,
21 as the name implies, everyone can worship there. But there is
22 one room set aside for those of the Muslim faith to use. And
23 it was published on their website, the Prairie View A & M
24 website, that those prayer times, that was usually held Friday
25 afternoons, around 1:30. I don't recall the exact time.

11:38 1 Q. Now, during this same time period, did you learn of a tip
2 that had been provided to the FBI sometime in 2007?

3 A. Yes, sir.

4 MR. McINTYRE: And would you show Exhibit 1, please?

11:38 5 BY MR. McINTYRE:

6 Q. Let me show you what is marked as Exhibit 1 and ask you if
7 this is a tip that you learned of sometime in 2008, during the
8 start of your investigation?

9 A. Yes, it is.

11:39 10 Q. And without reading the whole thing, can you tell the Court
11 a summary of what the tip stated?

12 A. The tipster, the person that submitted the tip to the FBI's
13 tip line -- that's the www.fbi.gov site -- alleges that the
14 tipster came into contact with someone who tried to recruit the
11:39 15 tipster into supporting a terrorist organization. It further
16 goes in to describe some of those activities and discusses that
17 the person that tried to recruit the tipster has two sons that
18 may have or may in the future travel overseas to attend and
19 obtain military training. And, lastly, the tipster gives the
11:39 20 name of Abdul Bari and an address in Houston.

21 Q. And as you once stated, the e-mail address that you had was
22 an Abdul_Bari05. Is that correct?

23 A. Yes, it was.

24 Q. And, so, once you read this tip, what sort of investigative
11:40 25 steps did you take to determine whether this tip that was in

1 2007 had any relevance to the investigative lead that you
2 received about the Yahoo! e-mail account?

3 A. A tip like this develops its own line of investigation. We
4 completed that. We tried to figure out who the gentleman named
5 in the tip, if it was a valid even tip, if this person existed,
6 this Abdul Bari. The person did.

7 One of the things struck me after a few days is
8 we found an alias for Abdul Bari of Abu Rafi, A-B-U, R-A-F-I
9 which, to me, based on my knowledge of the names used -- Arabic
10 convention names, that means that -- Abu Rafi is what's called
11 a kunya, which is a name given. It means that Abdul Bari has a
12 child name of Rafi. So, I began to look for a person named
13 Rafi Abdul Bari.

14 Q. And that was based on the tip and also the fact of this use
15 of kunyas within the Islamic culture and Arabic language. Is
16 that correct?

17 A. Yes.

18 Q. And what did you learn about Rafi Abdul Bari during the
19 course of this early part of the investigation?

20 A. I learned that both Abdul Bari, the gentleman mentioned in
21 the tip, and Rafi Abdul Bari, his son, they were both Black
22 males. The father was originally from the Virgin Islands,
23 converted to Islam. They lived in Houston, different parts.
24 They had a long history of moving around. Rafi Abdul Bari
25 played a number of sports, and he had recently applied to and

1 had been accepted but had not yet enrolled at Prairie View
2 A&M University.

3 Q. So, based on this information that you had, did you pursue
4 or look at the Rafi Abdul Bari that had been accepted to but
5 not yet enrolled in Prairie View?

6 A. Yes, we did.

7 Q. What sort of steps did you take to determine whether he had
8 any relevance to this investigative lead you had regarding the
9 Yahoo! e-mail account?

10 A. Our main line of investigation at this point -- again,
11 keeping in mind our job is to prevent anything that supports
12 terror -- was did this person ever travel overseas, what kind
13 of activities is he taking on campus, had he ever logged into
14 the Prairie View A & M computer system, checked his criminal
15 record, checked associates, checked a number of online social
16 networking sites that he may or may not have visited. Standard
17 procedure.

18 Q. And one of the online networking sites that you checked,
19 was it called MuslimMatch.com?

20 A. Yes, sir.

21 Q. Can you tell the Court what you did to investigate Abdul
22 Bari or Rafi Abdul Bari in relation to the MuslimMatch.com
23 website?

24 A. Yes. I went to the site. It was -- at the time that I
25 went to it, which was September 30th, 2008, it was an open

11:43 1 site, meaning you don't have to pay or have a login. So, I
2 went to it on an Internet computer and typed in variations of
3 Rafi Abdul Bari, Abdul Bari, with the spelling off the tip and
4 a number of other spellings, in an order to find anyone that
11:43 5 had posted that may be Rafi Abdul Bari.

6 Q. And how many entries did you have that had some
7 relationship to an Abdul Bari when you first looked at it, and
8 then how many did you later determine weren't relevant and you
9 got it down to a smaller number?

11:43 10 A. As I recall, there were tens of thousands of profiles on
11 the site at that time. And my search terms that I used brought
12 back maybe 14, approximately, maybe 15, with some variation.

13 And then, after you looked at each and every
14 profile -- I knew that Rafi Abdul Bari and Abdul Bari in the
11:43 15 tip were Black males. So, I was looking for someone Black and,
16 obviously, from Houston. And that got me down to two or three.
17 And then you looked further. There was only one that was a
18 Black male from Houston. The rest were Asian or from other
19 parts of the world.

11:44 20 Q. Let me show you what is marked as Exhibit Number 3. And is
21 this the Muslim Match user profile that you're referencing
22 today that you ultimately eliminated this Abdul Bari search
23 down to?

24 A. Yes, sir.

11:44 25 Q. And can you --

11:44 1 THE COURT: That symbol in the upper left, what is it?
2 Also a match-making operation, too?

3 THE WITNESS: Yes, sir. There's two hearts overlaid.

4 THE COURT: Okay.

11:44 5 BY MR. MCINTYRE:

6 Q. Now, on the information that's listed on this first page,
7 were there some things that caught your attention regarding a
8 description of the person that was Abdul_Bari05 on this
9 MuslimMatch.com site?

11:44 10 A. Yes, sir. I was looking at the login name, date of
11 birth -- or the age, the fact that it was a male, height and
12 weight, the person was Black, a Sunni Muslim. And then, since
13 it's a dating site, I would assume that the person was single.
14 So, I was looking for someone younger that was single.

11:45 15 What also jumped out at me that's visible is the
16 date that it was created, which was 2005.

17 Q. And why was 2005 significant?

18 A. At the time I didn't know. I assumed it had something to
19 do with the "05" in the profile name. But I later learned,
11:45 20 during the investigation, that that was the year that the
21 defendant converted to Islam.

22 Q. And the user name for this account user is also
23 "Abdul_Bari05." Is that correct?

24 A. Yes, it is.

11:45 25 Q. And that's exactly what the e-mail address is, minus the

1 @Yahoo.com. Is that correct?

2 A. Yes, sir.

3 Q. So, I assume that also drew your attention. Is that right?

4 A. Yes, sir. At this point I'm holding two or three different
5 possible cases in my hand. And this looks like it could have
6 been Rafi at the time, it could have been the person using the
7 computer at Prairie View A & M. So, I had to explore all
8 options.

9 Q. At this point in the investigation, did you even know who
10 Barry Bujol was?

11 A. No, sir.

12 Q. You were just looking for someone that was using the Yahoo!
13 e-mail account. Is that correct?

14 A. Well, I was not only looking for that; but I had opened --
15 I guess you would use the "can of worms," with the tip. Now,
16 we have another person that's in the territory that I am
17 supposed to investigate, which is where Prairie View A & M is;
18 and I'm looking at Rafi. Abdul Bari is someone who may have
19 traveled, as the tip implied, overseas to obtain training. So,
20 I've got two possible angles to investigate.

21 Q. Let's go to Page 2 of that Abdul_Bari05. And on Page 2 is
22 there information within his profile where he indicates things
23 that he likes and dislikes, personality, and things like that,
24 that drew your attention to this particular profile?

25 A. Yes. In the upper left-hand corner, you can see there's a

11:47 1 section where you list issues about your personality. And in
2 bold, the person that posted this listed "Jihad." That in and
3 of itself doesn't raise any flags by itself. However, when
4 it -- underneath there, it says, "World Change." And the
11:47 5 person that posted this said, "If it were possible" -- "I would
6 make the entire planet Islamic."

7 I understand from my knowledge of the religion
8 and investigating people that practice the religion, in the
9 course of my terrorism investigations, that it's not an
11:47 10 abnormal thought that the world should change to one religion
11 or another. But this struck me as -- "I would make the entire
12 planet Islamic," as if it was an act of --

13 THE DEFENDANT: Objection.

14 THE COURT: What's the objection?

11:48 15 THE DEFENDANT: He's leaving out a critical part of
16 the statement that says --

17 THE COURT: Then -- excuse me. The critical part of
18 the statement that he's reading from?

19 THE DEFENDANT: Yes.

11:48 20 THE COURT: Okay. All right. That's the rule of
21 optional completeness. All right? So, then, if he may -- if
22 you want, he can read the rest of it, also.

23 BY MR. MCINTYRE:

24 Q. Can you read the whole portion --

11:48 25 THE COURT: Yeah.

1 BY MR. MCINTYRE:

2 Q. -- on the "Self Change," instead of the second half of that
3 portion?

4 THE COURT: That's -- thank you. That will --

5 THE WITNESS: On "Self Change" or --

6 THE COURT: In other words, what it is, the rule of
7 optional completeness --

8 BY MR. MCINTYRE:

9 Q. Okay. "World Change." I'm sorry.

10 THE COURT: -- if somebody reads something, and it's
11 just a small phrase or two that would fill it out from the
12 other side, rather than wait until he takes you on cross-exam,
13 it's a lot quicker to do it now.

14 THE WITNESS: "If it was possible before the return of
15 Isa, alayhis salam [sic], I would make the entire plant
16 Islamic."

17 THE COURT: Okay. Go right ahead, sir.

18 BY MR. MCINTYRE:

19 Q. Now, if you go further down the profile, it's got -- under
20 "Occupation," it's got some information that later became
21 relevant to your investigation. Is that correct?

22 A. Yes.

23 Q. And what is that information?

24 A. The person boasts that he's the owner of a window cleaning
25 and pressure washing company.

11:49 1 Q. And did you later learn, during the course of the
2 investigation, that Mr. Bujol had a window cleaning business?
3 A. Yes. It was named Better Way Windows.
4 Q. And on the right hand, this person has entered some
11:49 5 information, what they think about music and instruments. Is
6 that correct?
7 A. Yes, sir.
8 Q. And what is written within the document regarding music and
9 instruments?
11:49 10 A. Under "Music" it says, "Music is Haraam." And under
11 "Instrument" it said, "Music is Haram," [sic] exclamation
12 point.
13 Q. What does "haraam" mean?
14 A. Means it's essentially bad, it's against the religion, and
11:49 15 it shouldn't be done. To me, when I see that together, it
16 tells me that the person that posted this takes a more strict
17 and extremist view of their religion, with making the entire
18 plant Islamic, jihad, music is haraam.
19 Q. And, also, if you go to Page 3, under "Education" is there
11:50 20 information that later would become relevant also?
21 A. Yes. It says under "Education," under the section that's
22 called "Future," "I would like to take Arabic classes."
23 Q. And did you later learn that Mr. Bujol was trying to learn
24 Arabic?
11:50 25 A. Yes, sir.

11:50 1 Q. Now, during the time period that you found this
2 MuslimMatch.com website, was there a search box within that
3 website that led you to other information regarding this Abdul
4 Bari?

11:50 5 A. Yes, sir.

6 Q. And tell the Court how you entered that search and then
7 what you found.

8 A. On the -- back on the first page, there's a text box for
9 searching; and I entered in, again, variants of Abdul Bari.

11:51 10 And when I entered the variant spelled the same as the way the
11 profile is, with the "I" at the end of the "Bari," one of the
12 returns I found was a posting by someone named Abdul Bari to a
13 website entitled Jihad Fields.

14 Q. And let me show you what is marked as Exhibit 4. And is
11:51 15 that the website that you refer to which is called "Jihad
16 Fields Are Calling"? Is that correct?

17 A. Yes, sir.

18 Q. What does it say -- even though it's cut off to some
19 degree, what does it say beyond -- or below "Jihad Fields Are
11:51 20 Calling"?

21 A. "Islam will dominate the world no matter how much
22 kuffar" -- I believe it says "dislike."

23 Q. And what is a "kuffar"?

24 A. It's used -- it's a derogatory term for someone that
11:52 25 doesn't believe in the religion of Islam and acts in a way

11:52 1 against that religion.

2 Q. And did you have occasion to look through this website, and
3 can you tell the Court whether it was a radicalized website or
4 not a radicalized website?

11:52 5 A. The content was very radical in nature. The way that
6 website is laid out on the screen, when it's not printed out,
7 is it has the posts, which is there at the bottom, and links
8 you to other sites or websites or documents that are resident
9 somewhere else on the Internet. Every one of the posts that's
11:52 10 on this page and other pages had to do with the ongoing fights
11 in Chechnya, battles in Iraq, Afghanistan, mujahideen. A lot
12 of the different sites were glorifying actions that were taking
13 place by the mujahideen elsewhere.

14 The article itself, which was the Jihad Fields
11:53 15 portion, essentially it's an article in English which to me at
16 the time was important because the person that I am looking at
17 I believe to not yet fully know Arabic. So, therefore,
18 something in English would be important because that would be
19 something they could understand.

11:53 20 It's essentially a call to arms. It's asking
21 Muslims -- able-bodied Muslims to travel overseas into areas
22 there's ongoing conflict between Muslims and non-Muslims and
23 gives specific places, like the Arabian Peninsula, Chechnya,
24 Palestine, a number of others, and implores them to travel and
11:53 25 obtain victory or martyrdom in that path.

11:53 1 Q. If we go to Page 3, that's the start of the article that
2 you're referencing. Is that correct?

3 A. Yes, sir.

4 Q. And if we go to Page 8 -- there's a comment section for
11:54 5 people to enter comments regarding the article. Is that
6 correct?

7 A. Yes, sir.

8 Q. And on Page 8, is there an e-mail -- or is there a comment
9 from an Abdul Bari on July 31st of 2008?

11:54 10 A. Yes, sir.

11 Q. And this is the comment that led you to this site from the
12 MuslimMatch.com. Is that correct?

13 A. Say that again, sir.

14 Q. This is -- when you did your MuslimMatch.com search, this
11:54 15 is where you ended up. Is that correct?

16 A. Oh, yes, sir.

17 Q. What does Comment 5 from Abdul Bari say?

18 A. "Asalamu 'alaikum akhi. What about an English speaking
19 Muslim serious about jihad and wants to know what he can do.
11:54 20 What do you suggest?"

21 Q. And was there a response immediately below that from the
22 moderator named Mujahid?

23 A. Yes, sir.

24 Q. What does the moderator suggest to Abdul Bari?

11:55 25 A. There's an Arabic greeting back to -- the last word is

11:55 1 "akhi," which is "back to the brother."

2 "The answer is simple. Choose the path of Adam
3 Gadahn, also known as Azzam the American. Choose the path of
4 Hamza Walker Lindh, also known as American Taliban."

11:55 5 Q. Who is Adam Gadahn?

6 A. Adam Gadahn is a person from California, who is a member of
7 al-Qaeda; and he's currently overseas. He's wanted by the FBI.
8 He's been indicted in a number of charges related to terrorism,
9 treason, conspiracy.

11:55 10 Q. And who is Hamza Walker Lindh?

11 A. His name is John Walker Lindh. He's also known as Johnny
12 Walker Lindh. There's a lot of names for him. He's American,
13 also from California, traveled to Yemen to attend a language
14 school; and then, from there, went on to the battlefield in
11:56 15 Afghanistan, was captured by US forces, is currently serving
16 time for his assistance to the Taliban, in federal
17 penitentiary.

18 Q. And if we go to the bottom of the next page, there's a
19 follow-up comment from Abdul Bari. Is that correct?

11:56 20 A. Yes, sir.

21 Q. And essentially what does Abdul Bari say in regards to the
22 advice that he received from the moderator?

23 A. The way I describe it, he feels like he's been brushed off
24 a little bit. So, he says, "To 'follow the path of the
11:56 25 American or John Walker Lindh' is a pretty broad answer. I've

11:56 1 tried to find out how they made their way to the battlefields,
2 but that information isn't out there. I'm looking for a
3 specific course of action. Right now I'm learning Arabic and
4 exercising but still that isn't going to tell me how to get
11:56 5 overseas to the Land of Ribaah and fulfill my obligations by
6 defending Islam. I'm asking yourself or anyone for sincere
7 naseehah."

8 Q. And was there information within these comments from Abdul
9 Bari that matched the information that you later came to know
11:57 10 about the defendant?

11 A. Yes. The exercising, the learning Arabic, and then the --
12 just the pure attempt to gather very specific information on
13 how to get overseas, those are all things that --

14 Q. And then, below that, there's another -- there's a comment
11:57 15 to the Bari comment, from the moderator. Is that correct?

16 A. Yes.

17 Q. And what's the summary of that information?

18 A. Basically, the only guidance you can get online is keep
19 your intentions pure, keep looking for opportunities to at
11:57 20 least make hijrah to any Muslim land for -- first before going
21 to the Land of Ribaah, keep praying to Allah sincerely to
22 accept you.

23 Q. Now, later on during the investigation, after you had
24 received and looked at this information, did you issue a
11:58 25 subpoena for an e-mail account -- or for several e-mail

11:58

1 accounts, actually?

2 A. Yes, sir. Given that the Abdul_Bari05 posting on Muslim
3 Match, you know -- we didn't have much to go on. So, we
4 decided to seek and we did seek and obtain federal grand jury
5 subpoenas for subscriber information to the major Internet
6 service providers using that extension, for example,
7 Abdul_Bari05 at Yahoo! --

8 THE COURT: Slow down. The court reporter needs to
9 take it down.

11:58

10 A. -- Yahoo!, MSN, AOL, GMail, some of the major service
11 providers.

12 BY MR. MCINTYRE:

13 Q. Did you receive a response from any of the service
14 providers regarding Abdul_Bari05?

11:58

15 A. We received numerous; but most all said that they didn't
16 exist, with the exception of Yahoo!.

17 Q. And you received a response from Yahoo!. Is that correct?

18 A. Yes, sir.

19 Q. Show you Exhibit 6, Page 3.

12:00

20 THE COURT: Are you able to bracket -- you know,
21 bracket and blow it up that way?

22 MR. MCINTYRE: We are, your Honor. Sometimes with
23 this screen it takes portions too big and takes them off the
24 screen.

12:00

25 THE COURT: Okay.

12:00

1 BY MR. MCINTYRE:

2 Q. Agent Cannon, let me show you what is marked as Exhibit 6,
3 Page 3. And can you explain to the judge what Exhibit 6,
4 Page 3, is?

12:00

5 A. Yes, sir. It's the page provided by Yahoo!, that gives the
6 information that whoever created the account provided as
7 identifying information.

8 THE COURT: Is that what it says, "Yahoo! Account
9 Management Tool"?

12:00

10 THE WITNESS: Yes, sir.

11 THE COURT: All right. Go on.

12 BY MR. MCINTYRE:

13 Q. And this was in response to your subpoena. And in addition
14 to this registration information, or subscriber information,
15 you also got login information. Is that correct?

12:00

16 A. Yes, sir.

17 Q. And what was significant about the subscriber information
18 on Page 3 of Exhibit 6?

19 A. Significant to me was the date that it was created, again,
20 in 2005, just a few days before the Muslim Match posting; the
21 name, Mr. Abdul Bari; and the city, which was Prairie View;
22 and, then, the fact that the account was active.

12:01

23 Q. And if you go to Page 4 of Exhibit 6, there's login
24 information. Is that correct?

12:01

25 A. Yes, sir.

12:01 1 Q. And was there anything significant about the login
2 information, which basically shows when a person logs into
3 their e-mail account and what IP address they did that from?
4 Is that correct?

12:01 5 A. Yes. What was significant to me was there was a number of
6 logins, oftentimes, many --

7 THE COURT: What page are we on?

8 MR. McINTYRE: Page 4, your Honor. I'm sorry. Page 4
9 of Exhibit 6.

12:01 10 THE COURT: "Page 4," in the upper right-hand corner?
11 Is that what you are talking about? Small Page 4 or numerical
12 Page 4 as you flip in?

13 MR. McINTYRE: It's going to be Page 4, numerical
14 Page 4.

12:01 15 THE COURT: That's it?

16 MR. McINTYRE: Yes.

17 THE COURT: Just a set of numbers and letters?

18 MR. McINTYRE: Yes, your Honor.

19 BY MR. McINTYRE:

12:02 20 Q. All right. Looking at this information, which shows when
21 the account was logged into, did you have someone perform,
22 like, a frequency analysis on this?

23 A. Yes. We learned -- I mean, if I look at the IP addresses,
24 every one on that page is a Prairie View A & M IP address,
12:02 25 resolves somewhere on the university campus. So, in order to

1 figure out who the actual user of this account was, we decided
2 to see what days was there any kind of pattern developed by the
3 person that was logging into this account.

4 Q. And with these Prairie View login IP addresses and the
5 dates and times, what did you determine was the best time to
6 set up surveillance for these computers to see who's actually
7 accessing this AbdulBari_05 [sic] account?

8 A. We chose Friday afternoons because, although there were
9 other patterns, that was -- that was always -- the person
10 always logged in that day.

11 Q. And you got that information from this information that
12 we're looking at today. Is that correct?

13 A. Yes, sir.

14 Q. Now, on Friday, October 31st, you conducted surveillance.
15 Where did you conduct surveillance at on the Prairie View
16 campus?

17 A. We conducted surveillance in the vicinity of the John
18 Coleman Library.

19 Q. And where is the All Faiths Chapel in relationship to the
20 John Coleman Library?

21 A. It's just adjacent. It's 30 or 40 yards or less, next --
22 it's next to the Coleman Library.

23 Q. And what was observed on Friday, October 31st, in relation
24 to the All Faiths Chapel and the computers that were in the
25 Coleman Library at Prairie View A & M?

1 2 : 0 4 1 A. We set up surveillance all around all the logical entrances
2 and exits of the Coleman Library. And I don't recall the exact
3 time, but it was just before 2:00 o'clock. A group of
4 gentlemen exited the All Faiths Chapel, moving on foot towards
1 2 : 0 4 5 the Coleman Library. They were talking amongst themselves and
6 had -- they dispersed different directions after a few minutes.
7 Q. Was anyone, of this group that left the All Faiths Chapel,
8 observed going to the Coleman Library?
9 A. There was at least one, yes.
1 2 : 0 4 10 Q. Can you describe that person?
11 A. It was a tall Black male dressed in traditional Islamic
12 attire with a long robe, a thawb, and kufi, which is a
13 headdress, and wearing a backpack, approximately 6-foot-4.
14 Q. And 6-foot-4 matched the information that was on the
1 2 : 0 4 15 MuslimMatch.com website. Is that correct?
16 A. Yes.
17 Q. And was this individual that you just described observed at
18 the computers at the Coleman Library?
19 A. Yes.
1 2 : 0 5 20 Q. And do you know approximately the time that he started work
21 on the computer and approximately when he left on October 31st?
22 A. He got onto the computer on the first floor of the library
23 approximately 2:07. And I don't recall exactly what time he
24 got off, but it was 20 minutes or so. He was observed logging
1 2 : 0 5 25 in, had some headphones, printed a few things off, put those

12:05 1 things and the headphones back in his backpack and exited the
2 library.

3 Q. And where did this individual go after he exited the
4 library?

12:05 5 A. Walked towards the parking lot that's next to the
6 architecture building and then eventually got into a vehicle
7 and drove away.

8 Q. And what type of vehicle was this?

9 A. It was a green four-door. I think it was a Nissan, late
12:05 10 model. I don't recall.

11 THE COURT: Sedan?

12 THE WITNESS: Yes, sir.

13 THE COURT: Sedan.

14 BY MR. MCINTYRE:

12:05 15 Q. And where was the vehicle followed to after it left Prairie
16 View?

17 A. We followed it off of the campus, a short distance -- 2, 2
18 and a half, 3 miles -- to Pine Island Road. There's an
19 apartment complex there at 20598 Pine Island Road. And we
12:06 20 canceled the surveillance once the car went into the apartment
21 complex, because there's only one way in and one way out.

22 Q. Later on in the investigation, did you learn that's where
23 the defendant resided, in that apartment complex?

24 A. Yes.

12:06 25 Q. Let me show you what is marked as Government's Exhibit 7

12:06 1 and have you take a look at that. And can you tell me what
2 Government's Exhibit Number 7 is?

3 A. That's a printout of a digital photo taken during that
4 surveillance of the defendant walking away from the Coleman
12:06 5 Library, towards parking lot where the vehicle was.

6 Q. And let me show you what is marked as Government's Exhibit
7 8 and have you describe what Government's Exhibit 8 is.

8 A. That's the defendant, parked, at the rear of the car. As
9 you look at the picture, to the right where his hand is you see
12:07 10 the car that he was about to get into. To the left there's an
11 unidentified male that he was speaking to at the time.

12 Q. And do you see that individual in the courtroom today?

13 A. Yes, I do.

14 Q. And can you point to him and identify him?

12:07 15 A. He's wearing a green jumpsuit.

16 MR. McINTYRE: May the record reflect the witness has
17 identified the defendant, your Honor?

18 THE COURT: The record will so reflect.

19 BY MR. McINTYRE:

12:07 20 Q. And that's the defendant that's charged in the indictment
21 before this Court. Is that correct?

22 A. Yes, sir.

23 Q. Now, after you had surveilled the defendant on the
24 computer, what investigative steps did you take at that point
12:07 25 to determine what he had done on the computer and what he was

12:07 1 accessing on the computer?

2 A. At this point, because of what was going on on the campus,
3 we were still looking at Rafi up to a few days before, the Rafi
4 Abdul Bari. We were working jointly with the police department
12:08 5 on campus. And, that day, we seized the computer that the
6 defendant had just logged off of; we put a sign that said, "Out
7 of order," waited till he left the area to seize the computer
8 in order to determine what was done on the computer.

9 Q. And what did you learn about Prairie View's computers and
12:08 10 whether they save information or don't save information?

11 A. At the time of the investigation, that portion of the
12 library used a program that's called "Deep Freeze." And
13 essentially what that means is, as soon as you log off of the
14 computer, whatever user name you used, that computer program
12:08 15 sets in and wipes away any history or anything you may have
16 accessed during the time you were logged on.

17 Q. And, so, the information had been wiped off the computer
18 you seized. Is that correct?

19 A. The information containing anything to do with anybody
12:09 20 logging in that day had been wiped, yes.

21 Q. Now that you had a photo of the defendant and a general
22 location where he might reside, or at least he went to in his
23 car, what other investigative steps did you take in regards to
24 this case?

12:09 25 A. We had a description of the vehicle and a Texas license

12:09 1 plate; so, we ran our normal database checks to figure out who
2 owned the vehicle, get a picture of that person, see if they
3 had any relationship with the university, a criminal history.
4 And as I recall, that vehicle had multiple names associated
12:09 5 with it -- former owners, current owners. And after a few
6 weeks of that, nobody that was associated with that vehicle had
7 any connection to Prairie View.
8 Q. Now, I guess a few weeks later did you have occasion to see
9 that vehicle at the Prairie View campus?
12:09 10 A. Yes, sir.
11 Q. Where did you see it?
12 A. I was leaving the campus with the co-case agent, and we
13 observed that vehicle turn and eventually park in the health
14 clinic on campus. It was driven by a female, Black female.
12:10 15 Q. And what steps did you take to determine who the Black
16 female driving that vehicle that you had previously seen was?
17 A. We followed it to its parking place at the healthcare -- at
18 the health clinic on campus, and we sat in a vehicle and watch
19 it and determined that -- when the occupant parked, she parked
12:10 20 illegally. She was unloading her child. She went inside the
21 building. So, we contacted the police on campus, informed them
22 of the illegal parking, requested that if they were going to
23 ticket it -- that was the normal procedure -- that they would
24 do so only at the time the occupant returned to the vehicle, in
12:10 25 an effort to identify her.

12:10 1 Q. And what information did you learn about the driver of the
2 vehicle?

3 A. We learned that her name was Ernestine Johnson and she was
4 the mother of the child that she was pushing and that the child
12:11 5 was the child of Barry Walter Bujol, Jr., who she stated was a
6 student on campus.

7 Q. So, at this point in the investigation you had the name of
8 Barry Bujol. Is that correct?

9 A. Yes. And, also, on the information that the university
12:11 10 police filled out on the ticket, we obtained an address which
11 was to the same apartment complex, using the Apartment
12 Number 55.

13 Q. And when you say the "same apartment complex," are you
14 referring to the apartment complex he was followed to by
12:11 15 surveillance in October?

16 A. Yes.

17 Q. Now, during this investigation, did you obtain or learn of
18 a phone number that was associated with Mr. Bujol?

19 A. Yes, sir. Now that we had a name, we began anew all the
12:11 20 things we had done with Rafi and the other Abdul Bari. We went
21 to the university to get what's called "directory information"
22 from the university, to determine a name, phone number, things
23 like that. We obtained a cell phone number for the defendant,
24 that was used by his family; and an address, an e-mail address;
12:12 25 things of that nature.

1 Q. And did you then search for information based on this cell
2 phone number that you had for Mr. Bujol?

3 A. We did a number of searches on every piece of identifying
4 information we had on Barry Bujol and Ernestine Johnson,
5 determined they weren't married but they lived together. But
6 the phone number, we ran a number of ways. One of the ways we
7 did that was just a simple Google search on the Internet.

8 Q. Let me show you what is marked as Government's Exhibit 23.
9 And I'm going to show you the first page. And five down -- I
10 think five paragraphs down there's a reference to Better Way
11 Windows. Is that correct?

12 A. (No audible response).

13 Q. Can you see that?

14 I think it will be the fifth one down.

15 A. Okay. Yes. I see -- throughout this page was a number of
16 links to -- it's the exact same company, but it's Better Way
17 Windows, Houston, Texas. Provides a cell phone number; you can
18 see it in bold there. It's bolded because that's the number we
19 actually searched. Provides a little bit of information about
20 it.

21 Q. Okay. And if we go to the second paragraph and look to --
22 I think, the second paragraph down, there's an advertisement
23 for the sale of a vehicle. Is that correct?

24 A. Yes, sir. There's a posting for the sale of a van for
25 \$2,500. And the person lists, "I'm selling because I'll be

1 leaving the country. Serious buyers only." And then, again,
2 same phone number, in bold.

3 Q. And that's a phone number associated with Mr. Bujol. Is
4 that correct?

5 A. Yes. And right below it is a number again with Better Way
6 Windows, a PO box for Prairie View.

7 Q. Now, during this time of the investigation, sometime in
8 November of 2008, did you get what's called an order from the
9 court called a 2703(d) order?

10 A. Yes, sir.

11 Q. What exactly does a 2703(d) order get you in addition to
12 login information and subscriber information?

13 A. It gives you header and footer information regarding
14 e-mails. So, it's --

15 THE COURT: What do you mean "header and footer"?

16 THE WITNESS: It give us the "To" and the "From," a
17 date and a time. It does not give content of an e-mail.

18 BY MR. McINTYRE:

19 Q. Let me show you what is marked as Government's Exhibit 9A,
20 Page 2.

21 MR. McINTYRE: Is this -- or Page 1, I guess.

22 BY MR. McINTYRE:

23 Q. And it's -- there's a document called "Yahoo! Account
24 Management Tool." Is that correct?

25 A. Yes, sir.

1 2 : 1 5 1 Q. And, again, that's the subscriber information associated
2 with this account that we've previously talked about. Is that
3 correct?

4 A. Yes, sir. When you do a 2703(d) order, in addition to the
1 2 : 1 5 5 header-footer, you get subscriber and login information, just
6 like you would if you did a subpoena.

7 Q. And if we go to the next page, there's the login
8 information. Is that correct?

9 A. Yes, sir.

1 2 : 1 5 10 Q. Now, did you -- the login information is given in Greenwich
11 mean time. Is that right?

12 A. Yes, sir.

13 Q. And did you do an analysis of the time period that
14 Mr. Bujol was seen logging on at the Coleman Library at Prairie
1 2 : 1 5 15 View and see if there was a login into this account at or
16 around the same time period?

17 A. Yes. There was one within a few minutes of the time we saw
18 him.

19 Q. What did that tell you during your investigation, regarding
1 2 : 1 6 20 whether Mr. Bujol was accessing this account?

21 A. It told me that this account was accessed by -- the person
22 that I later identified as the defendant was at the computer at
23 the time it was logged into this account.

24 Q. So, you had surveillance of him at the computer; and then
1 2 : 1 6 25 you also had an IP address that someone was logging into that

1 account that same time period -- or within a minute or two of
2 that same time period?

3 A. Yes, sir.

4 Q. Now, you also talked about -- and I'm not going to show you
5 this, but there's a CD marked 9B which is also part of the
6 evidence in this case -- that you received this header
7 information. Is that right?

8 A. Yes, sir.

9 Q. What was on the header information, that was of interest to
10 you in this investigation, regarding terrorism and regarding
11 this Abdul_Bari05 account?

12 A. As I recall, there were a number of header-footers; and we
13 had to go through and sort through which ones were duplicative.
14 And we found that there were headers-footers to e-mail
15 addresses that had the name of an Arabic language institute in
16 it; so, that led me to believe the person was e-mailing that
17 had to do with an Arabic language. And, also, there were a
18 number of e-mails to and from Anwar Awlaki's website and Anwar
19 Awlaki's Yahoo! account.

20 Q. Who is Anwar Awlaki?

21 A. He is a recently deceased member of al-Qaeda in the Arabian
22 Peninsula. He's a US born Yemeni who speaks fluent English.
23 He is what's called a "radicalizer." So, he posts things on
24 the Internet in an effort to recruit and radicalize people.

25 What's of importance about him is, because of his

1 lengthy stay in the United States and the fact he's a US
2 citizen, he understands social media. He understands US -- the
3 English language with US colloquialisms and the common phrases
4 and current events in America.

5 Q. And what was Awlaki's relationship to Nidal Hasan, the Fort
6 Hood shooter?

7 A. Nidal Hasan was a major who had corresponded with Anwar
8 Awlaki.

9 THE COURT: Major where? Major in what?

10 THE WITNESS: He's a major in the United States Army,
11 stationed at Fort Hood.

12 BY MR. MCINTYRE:

13 Q. What is Major Hasan charged with currently?

14 A. I'm not sure the exact charge, but he's currently in --
15 charged under the Uniform Code of Military Justice, which is
16 the military's judicial system, for multiple murders that took
17 place on Fort Hood.

18 Q. And what is Awlaki's association with Abdulmutallab?

19 A. Abdulmutallab was the -- what is called the Christmas Day
20 bomber that -- Christmas day 2009 he attempted to blow up an
21 aircraft using underwear -- a bomb placed in his underwear.
22 Prior to that attempted attack, he had been in contact with and
23 had been directed by people in al-Qaeda in the Arabian
24 Peninsula, one of which was Anwar Awlaki.

25 Q. So, when you saw this header information, that -- that

12:19 1 became, I guess, a focal point of your investigation. Is that
2 correct?

3 A. Yes, sir. It was 2008. A lot of those things hadn't
4 happened yet. But there was a lot of information, and I was
12:19 5 aware that Anwar Awlaki had been reported to have assisted 9-11
6 hijackers. So, correspondence with and from him was a -- very
7 important for us.

8 And one of the particular e-mails was from Anwar
9 Awlaki to Abdul_Bari05 account, and it was much larger in size
12:20 10 than the rest. That led me to believe there might be an
11 attachment associated with it.

12 Q. Now, in relationship to finding these -- this footer-header
13 information which indicated e-mail communication between Awlaki
14 and the defendant, did you learn information about the
12:20 15 possibility he might travel overseas during the same time
16 period?

17 A. Yes, sir. I mean, I had the Jihad Fields posting that
18 mentioned "hijrah," which I know to be a migration. I knew --
19 I had the posting about selling the van, leaving the country.
12:20 20 We did -- we had -- at this point we had identified the
21 defendant. We had surveillance on him, and we had seen other
22 indications that maybe he was going to leave the country. And
23 one of the searches we did was to see if maybe he had a
24 passport, to see if it was even possible.

12:20 25 Q. Let me show you what is marked as Exhibit 24. And if we go

1 to Page 4 of Exhibit 24.

2 And do you recognize what I am showing you that's
3 been admitted as Exhibit 24?

4 A. Yes, sir.

5 Q. And what is Exhibit 24?

6 A. This is a certified -- well, it's a copy of a certified
7 copy of an application for United States passport in the name
8 of Barry Walter Bujol.

9 Q. And what is the address that Mr. Bujol gives?

10 A. 20598 Pine Island Road, Apartment 55, Hempstead, Texas.

11 Q. And there's also an e-mail address that he provides the
12 department of state in this application. Is that correct?

13 A. Yes, sir.

14 Q. And what's the e-mail address?

15 A. Barry, B-A-R-R-Y, Bujol, B-U-J-O-L, 6@Yahoo.com.

16 Q. And is that e-mail address different than the one that you
17 knew him to be using and accessing at Prairie View A & M?

18 A. It's different from the Abdul Bari one. I don't recall if
19 that was one he had provided to the university at that time or
20 not.

21 Q. And if we go to the next page of his passport application,
22 there's some information in the middle, regarding plans to
23 travel. Is that correct?

24 A. Yes, sir.

25 Q. And what does Mr. Bujol represent to the state department

1 regarding his plans to travel, where he's going and when he's
2 going?

3 A. He put on there that in -- January 15th, 2009, he was
4 planning on taking a two-week trip to one of or all of six
5 countries: Yemen, Morocco, Egypt, Saudi Arabia, Syria, and
6 Sudan.

7 Q. And shortly below that is there an indication to whether
8 he's ever been married or whether he is married?

9 A. He says on Line 20 there, he X'd "no."

10 Q. He indicates he's never been married. Is that correct?

11 A. Yes.

12 Q. Now, we've talked about a subpoena for an e-mail account;
13 we've talked about a 2703(d) order for an e-mail account.

14 At some point during the investigation, did you
15 get a search warrant for an e-mail account?

16 A. Yes, sir.

17 Q. And approximately when did you get the search warrant for
18 the e-mail account?

19 A. In December of 2008.

20 Q. I show you what is marked as Government's Exhibit 10. And
21 is that the search warrant that you obtained in December of
22 2008 as part of this investigation?

23 A. Yes, sir.

24 Q. And what was the search warrant for?

25 A. It was for content, subscriber login information related to

1 2 : 2 3 1 Abdul_Bari05@Yahoo.com.

2 Q. And did you receive, in the form of a CD, the contents of
3 the e-mail communications that Yahoo! had stored for that
4 particular e-mail account?

1 2 : 2 3 5 A. Yes, sir.

6 Q. And I believe those are in Exhibit 12. And you've actually
7 printed out and separately labeled those e-mails in Exhibits 49
8 through 88. Is that correct?

9 A. Yes, sir.

1 2 : 2 4 10 Q. Let me show you Exhibit 49, Page 1. And can you tell the
11 Court what Exhibit 49, Page 1, is?

12 A. It's an e-mail from Barry Bujol using
13 BarryBujol@Hotmail.com to BarryBujol@Hotmail.com,
14 AbdulBari05@Yahoo.com, and BetterWayWindows@Yahoo.com. I've
1 2 : 2 4 15 seen that e-mail, BetterWayWindows, previously associated with
16 the defendant.

17 Q. And if we go to Page 2, there's an attachment. Is that
18 correct?

19 A. Yes, sir.

1 2 : 2 4 20 THE COURT: By the way, is there a business such as
21 Better Way Windows? Is it an ongoing business or what?

22 THE WITNESS: It is not ongoing, your Honor.

23 THE COURT: Was it at any time, to the best of your
24 knowledge?

1 2 : 2 5 25 THE WITNESS: I believe it was, yes, sir.

1 THE COURT: Okay.

2 BY MR. MCINTYRE:

3 Q. And if we go to Page 2, there's a résumé that's attached to
4 this e-mail account. Is that correct?

5 A. Yes, sir.

6 Q. And it gives you some indication as to who's using that
7 Abdul_Bari05 account. Is that right?

8 A. The fact that it was e-mailed by someone named Barry Bujol
9 to that, yes. And there's the cell phone number in the upper
10 right-hand corner. It's the same one that's on the passport
11 application, same one that -- provided by the university.
12 There's a PO box that was the same as Better Way Windows.

13 Q. And let me go to -- I'm not going to show you all the
14 e-mails, but if we could go to Exhibit Number 52. And could
15 you tell me what Exhibit 52 is?

16 MR. MCINTYRE: Highlight the top portion.

17 Thank you.

18 THE WITNESS: This is an e-mail dated December 23rd,
19 2005, from Abdul Bari, Abdul_Bari05@Yahoo.com, to a person
20 named Saba. The e-mail is personal in nature. It says that
21 the person's name is Hanif, he converted to Islam, chose the
22 name Abdul Bari, and that he owns a window cleaning/pressure
23 washing company that's called Better Way Windows.

24 BY MR. MCINTYRE:

25 Q. And if we go to Exhibit 57, is this also an e-mail that you

1 found on the Abdul_Bari05 account?

2 A. Yes, sir.

3 Q. And can you give us a summary of what this e-mail -- who
4 it's from, who it's to, and then a -- substance of what it
5 says?

6 A. Yes, sir. It's dated April 25th. It's from Abdul Bari,
7 using the same e-mail account. And it's to three e-mail
8 addresses with the same extension: alQaeda33@Yahoo,
9 alQaeda33@Hotmail, alQaeda33@GMail. In essence, the e-mail
10 reads that Abdul Bari had seen some videos posted online on
11 YouTube, posted by a person alQaeda33 and he enjoyed them but,
12 when he went back to look at them, the account had been deleted
13 and -- or the video had been removed and that the account had
14 been suspended but wanted -- this person -- Abdul Bari wanted
15 to reach out to whoever alQaeda33 was in order to have a
16 conversation with him.

17 Q. What did you learn about alQaeda33 and YouTube and what
18 sort of content was put on YouTube by alQaeda33?

19 A. We served a subpoena to YouTube and were able to recover
20 some information about that user and were able to see some of
21 the videos that he had posted. And they were very radical in
22 nature, very violent. They were beheading videos and
23 propaganda videos and other things like that.

24 Q. And why was Mr. Bujol trying to reach out to this alQaeda33
25 at these various e-mail addresses in relationship to, I guess,

1 al-Qaeda being -- 33 being suspended from YouTube?

2 A. Well, as the e-mail reads, I mean, he -- he wants to see
3 them again and wants to have a conversation with the person
4 that posted them.

5 This is something we had seen just a few months
6 prior. He also tried to reach out to someone else that had
7 posted something. And, to me, it looked like a continuing
8 effort, just like the Jihad Fields, to reach out to someone who
9 knew about that part of Islam in an effort to have a
10 conversation with them.

11 Q. And if we go to Exhibit Number 58, and this is an e-mail
12 from who to whom and on what date?

13 A. It's from -- it's titled "List of Sites." It's from Abdul
14 Bari, the defendant, to Abdul Bari, using the same e-mail
15 account. It's dated April 29th, 2008. And it's a list of
16 sites, links to -- or websites that are on the Internet.

17 Q. Do you know these websites to be Islamic and radical in
18 nature?

19 A. I have not been to all of them but I've been to a few of
20 them and I know that they are. And what strikes me about this
21 is -- what I know about the Prairie View A & M library is you
22 can't leave favorites like you would at your home computer, and
23 you probably wouldn't want to leave favorites for some of these
24 things if you thought anybody would see it.

25 So, what I am seeing here is an e-mail to

1 someone, to themselves, in an effort to easily go back and look
2 at sites without having to go back on the Internet and find
3 them again.

4 Q. And, again, this goes back to the information you had
5 regarding the Prairie View computers in which they use the Deep
6 Freeze, which wiped the information after you logged out. Is
7 that correct?

8 A. Yes.

9 Q. And there's several e-mails -- or multiple e-mails within
10 the e-mails you received from Yahoo! that are from Abdul_Bari05
11 to himself at Abdul_Bari05. Is that correct?

12 A. Yes, sir.

13 Q. Let's go look at Exhibit 59. And if we look at Page 1, can
14 you tell us who the e-mail is from, who it's to, and what time
15 it is?

16 A. It's subject, "My photos." It's from Abdul Bari,
17 Abdul_Bari05@Yahoo.com. It's dated June 20th, 2008; and it's
18 to a person named Laci Muslima. And it says, "Here's some
19 pictures of myself."

20 Q. And the person that's himself using this account is
21 Mr. Bujol. Is that correct?

22 A. Yes, sir.

23 Q. If we go to Page 3, there's a different photo. Is that
24 right?

25 A. Yes.

1 Q. And let's go to Exhibit 60, which is -- again, it's another
2 e-mail. And can you identify the information regarding this
3 e-mail?

4 A. Yes. It's titled -- subject line of "Site," S-I-T-E, from
5 AbdulBari05@Yahoo.com dated July 9th, 2008. And it's also to
6 the same e-mail address. And, then, inside the e-mail it has
7 two identical links to an Internet website on YouTube.

8 Q. And you captured that website. And it's on Exhibit 61,
9 which is a CD or DVD drive. Is that correct?

10 A. Yes, sir.

11 Q. And let me show you a portion of what's previously been
12 admitted as 61.

13 THE COURT: While we're waiting, I plan to go on to
14 1:00 o'clock since we started a little late, to get as much
15 time as we can. So, I apologize for that. If anybody
16 absolutely needs to take a break who's up, you know, either
17 cross-examining the witnesses, let me know; and, sure, we will.
18 But if we can -- and, from then on, I don't run on and on. I
19 just want to get as much as we can in the first session. We'll
20 break for hour and a quarter at about 1:00 o'clock.

21 Okay. Let's go.

22 Again, what exhibit?

23 MR. McINTYRE: This is 61, your Honor.

24 THE COURT: Okay. Any of the ones that go up
25 different from the what's in the book, let me know. Okay?

1 MR. MCINTYRE: Yes, your Honor.

2 THE COURT: Hold it. Can we center that, get that
3 over there where we can see it, please?

4 MR. MCINTYRE: Yes, your Honor.

5 THE COURT: Even if we have to take a moment.

6 MR. MCINTYRE: For some reason -- it should be playing
7 on the whole screen; but it's not. We'll work with it.

8 Is that better, your Honor?

9 THE COURT: That's better. It's got the whole picture
10 in there.

11 Now, what about -- is there sound, any sound at
12 all on this one?

13 MR. MCINTYRE: Yes, your Honor, there should be.

14 THE COURT: All right. What is this, and where is
15 it --

16 MR. MCINTYRE: This is an e-mail site that was
17 contained in an attachment that Mr. Bujol e-mailed to himself
18 in order to save it with the --

19 THE COURT: All right. Let me ask the witness.

20 Who is it purported to be? Do you know who that
21 is? Who is it purported to be?

22 THE WITNESS: It's purported to be a person named Juba
23 Sniper, meaning someone in Baghdad that was a sniper for the
24 Iraqi insurgency against coalition forces sometime 2003, 2007,
25 somewhere in there.

1 THE COURT: All right. How long is it? About.

2 MR. McINTYRE: I think it's approximately two and a
3 half minutes, your Honor.

4 THE COURT: Okay.

5 MR. McINTYRE: Maybe three minutes.

6 THE COURT: Okay. Go right ahead.

7 MR. McINTYRE: It's not very long.

8 *(Tape playing)*

9 THE COURT: Now, hold it. Let's go -- stop it right
10 here.

11 The language is what?

12 THE WITNESS: It's Arabic, sir.

13 THE COURT: All right. Where is the transcript? In
14 the book?

15 MR. McINTYRE: There's no transcript on this, your
16 Honor.

17 THE COURT: So, what is it being submitted for?

18 MR. McINTYRE: It's being shown as -- this is
19 information that Mr. Bari e-mailed to himself, that he was
20 interested in. It shows his intent to aid the al-Qaeda in the
21 Arabian Peninsula.

22 THE COURT: But aside from that -- that's a
23 determination for the judge and jury, if there was one.

24 MR. McINTYRE: Yes, your Honor.

25 THE COURT: So, you're offering it just for what the

1 picture is, not for any translation?

2 MR. McINTYRE: Correct, your Honor. Would you like us
3 to turn the sound down?

4 THE COURT: Doesn't matter. You can turn it down.
5 But -- you don't have to turn it off, but turn it down.
6 Unless -- if -- when it comes time for a translation, then
7 we'll go to the transcripts.

8 MR. McINTYRE: There's two videos that were contained
9 on e-mail attachments, that we've not translated because the
10 substance of what we're trying to give the Court is just the
11 picture.

12 THE COURT: Okay. I tell you what. Since it takes
13 that much, would you hit the switch, the one with the little
14 tag on it. Make it a little clearer.

15 All right. Go on.

16 *(Tape playing)*

17 THE COURT: I tell you what. Turn it up a bit. Might
18 as well hear it.

19 *(Tape playing)*

20 BY MR. McINTYRE:

21 Q. Okay. Agent Cannon --

22 THE COURT: All right. Let me mention one thing.
23 After the lunch break, if we can get to that computer and make
24 that larger whenever you show things like that. Okay?

25 MR. McINTYRE: Yes, your Honor.

1 THE COURT: All right. Can we turn the lights back on
2 at this point?

3 BY MR. MCINTYRE:

4 Q. Agent Cannon, you just watched a video of an attachment the
5 defendant sent to himself. What is portrayed in that
6 attachment we call "Juba Sniper Video"?

7 A. It's a little longer than that. It's an overall
8 glorification of Juba the Sniper, who -- as you noticed, on the
9 wall there was a bunch of hash marks. That's purporting to be
10 Americans that were killed.

11 You saw a -- world leaders with a
12 computer-imposed crosshairs and then what was supposed to look
13 like a shot to every one of their foreheads, former President
14 Bush and other world leaders at the time of the Iraqi conflict
15 2003. And then there were multiple images of coalition or US
16 soldiers being shot by a sniper.

17 Q. Let me show you what is marked as Government's Exhibit 62.
18 And this is another e-mail from the Abdul_Bari05 account. Is
19 that correct?

20 A. Yes, sir.

21 Q. And who is this e-mail from, and who is it to?

22 A. It's from Dahij Cimalsi to Abdul_Bari05@Yahoo.com, dated
23 July 12, 2008, with, again, another link to a website and a
24 name that has a link to Anwar Awlaki.

25 Q. And the sender of this information is Dahij Cimalsi. What

1 does that spelled backwards?

2 A. "Islamic jihad."

3 Q. All right. Let me show you what is marked as Exhibit 63,
4 which is an e-mail.

5 MR. McINTYRE: Your Honor, may I move the screen back
6 a little bit?

7 THE COURT: Sure.

8 Just adjust it during the lunch break. Okay? To
9 get the optimal area. Angle it a little bit so folks, if they
10 want to see it, can. But that's fine for now.

11 MR. McINTYRE: Okay.

12 BY MR. McINTYRE:

13 Q. All right. If we look at Exhibit 63, who is this e-mail
14 message from and who is it to and what's the date?

15 A. It's an e-mail from Anwar Awlaki, al_Aulaqi@Yahoo.com.
16 It's dated July 12th, 2008. And it's to
17 Abdul_Bari05@Yahoo.com.

18 Q. And if we go down to the second paragraph, it's got the
19 original e-mail from Abdul Bari to Mr. Awlaki. Is that
20 correct?

21 A. Yes, sir.

22 Q. And is it clear enough for you to be able to read what
23 Mr. Bari wrote to Mr. Awlaki during that time period?

24 A. Sure. It says, "Abdul Bari wrote: I have been a Muslim
25 for approximately three years now; and for the past several

1 months, I've been searching adamantly for knowledge regarding
2 the issue of jihad and my responsibilities as a Muslim in
3 America. I initially tried discussing the issue" -- can we go
4 back to the other view?

5 THE COURT: I tell you what. Move the screen. We can
6 do that eventually, but somehow get it -- maybe make it a
7 little bit smaller. But I think it's better when it's larger
8 and it can be read by everybody, including me.

9 All right. There we go. Thank you. Thanks.

10 MR. McINTYRE: Yes, your Honor.

11 THE WITNESS: Do you want me to reread the sentence or
12 just keep going?

13 BY MR. McINTYRE:

14 Q. If you could reread it.

15 A. Okay. "I have been Muslim for about three years now; and
16 for the past several months, I've been searching adamantly for
17 knowledge regarding the issue of jihad and my responsibilities
18 as a Muslim in America. I initially tried discussing the issue
19 with local imams and brothers in the community, but they
20 quickly dismissed my concerns. They told me that every jama'aa
21 out there is invalid and we shouldn't worry about it. But as
22 time keeps passing and I learn more, the issue becomes more and
23 more unsettling. I decided to search on my own, and I have
24 tried to discern whatever information I have come across in an
25 effort to find what is the correct thing to do. In my quest, I

1 have become convinced beyond a doubt that I need to step up to
2 the plate and contribute in some form or fashion. I am
3 sincerely asking for naseeha. I am married, and I have an
4 eight-month-old daughter. My wife and I have been planning for
5 hijrah when I graduate from college, but I am asking for advice
6 about what I can do for the ummah and how I can do it."

7 And an IP address of the Prairie View A & M
8 campus.

9 Q. And if you go up to the paragraph immediately above that --
10 is that correct -- that's a response from Mr. Awlaki to
11 Mr. Bujol. Is that correct?

12 A. Right. The paragraph above it is the actual e-mail that
13 the search warrant captured, but it included the previous
14 response. And it's from -- it's signed, "Your brother Anwar
15 Awlaki."

16 THE COURT: Why don't you read it?

17 THE WITNESS: It says, "Assalamu alaykum brother" --
18 that's "BR" -- "Abdul Bari. Insha Allah you are on the right
19 track. Please take a look at the attached article. If you
20 need any further help, let me know. Assalamu alaykum, Your
21 Brother, Anwar Awlaki."

22 BY MR. McINTYRE:

23 Q. If we go to Page 2, there's an attachment Mr. Awlaki
24 referred to -- or referenced Mr. Bujol to. Is that correct?

25 A. Yes, sir.

1 Q. What is that document entitled?

2 A. "42 Ways of Supporting Jihad."

3 Q. What can you tell the Court about this document and what
4 it's definition of "jihad" is and what are the things that it
5 recommends to Mr. Bujol that he do?

6 A. Well, as the name implies, there's 42 specific ways that
7 are spelled out, with one or more paragraphs explaining
8 specific things that the reader is being asked to do in order
9 to support the religion through jihad.

10 For example, in the middle of the page, it talks
11 about how jihad today is obligatory on every capable Muslim.
12 So, the reader is -- it's designed so that the reader will
13 follow as many of the 42 ways as possible.

14 Some specific ones, for example, 22 is physical
15 fitness. You're supposed to, work out in order to be ready to
16 fight. And it's very specific. You need to be able to sprint
17 for urban combat. You need to be able to carry heavy loads for
18 fighting in the mountains. We don't need power lifters or body
19 builders because they weigh us down in Chechnya.

20 There's one specifically about Muslims shouldn't
21 waste their time in trying to pursue degrees that aren't going
22 to help jihad. You should quit school and join the fight.

23 There's one in there that the work of jihad is
24 clandestine; you need to keep secrets in order to do that.

25 There's many in there about following the news

1 and the videos of the martyrs and the extremists and the
2 jihadis online in order to support them, in order for it to, I
3 think, kindle your own desire, as the reader, for martyrdom.

4 There's one in there about learning Arabic
5 because it's the international language of jihad and that it's
6 needed in order to communicate on the battlefield.

7 So, in my opinion, it's very descriptive.
8 There's no ambiguity about it. It's meant to be a blueprint
9 for how you, as obviously an English speaker, since it's in
10 English, can support jihad.

11 Q. During the course of your investigation of Mr. Bujol, did
12 you find that he had done many of the things that Mr. Awlaki
13 suggested in order to prepare for jihad?

14 A. Yes, sir. I mean, he had done -- by the time I had this,
15 he had already done quite a few. But by the end of the
16 investigation, I believe it was in excess of 23 or 24 of the
17 42.

18 Q. Let me show you what is marked as Exhibit Number 64, and
19 can you tell me what Exhibit Number 64 is.

20 A. It's an e-mail in response to the e-mail that we just
21 looked at; and it's dated July 12th, 2008. It's from the
22 defendant to Anwar Awlaki.

23 Q. And it's in response to the e-mail with the "42 Ways to
24 Support Jihad" that we just saw. Is that correct?

25 A. Yes, sir. You can see the thread -- e-mail thread at the

1 bottom. So, that one was July 12th; and this is later the same
2 day that this response is made.

3 Q. And what does the defendant write to Mr. Awlaki about on
4 this particular date, July 12th, 2008?

5 A. It states that he's read the article, which I believe to be
6 the "42 Ways."

7 "Quite a few things come to mind that I could get
8 started on immediately." And then he continues to talk about
9 very specific things that are part of the "42 Ways" that he can
10 do to support jihad.

11 And then he spells out two specific questions
12 that he has of Anwar Awlaki.

13 Q. And what are those two particular questions that he has for
14 him?

15 A. He asks, "If the website that he wants to start up, which
16 is discussed above, is shut down, how can I set it up in such a
17 way that -- to prevent it from being tracked to me? And, then,
18 also, once I've gathered enough money, how can I get it to the
19 mujahideen," which means "holy fighters." It's a common term
20 in jihadi circles. And then it's signed Abdul Bari.

21 Q. Let me show you what is marked as Exhibit 68.

22 THE COURT: When you say "marked," these are all
23 admitted into evidence.

24 MR. McINTYRE: That's correct, your Honor.

25 THE COURT: Okay. Go on.

1 BY MR. MCINTYRE:

2 Q. I show you what is admitted as Exhibit 68. And can you
3 tell me what Exhibit Number 68 is?

4 A. Yes, sir. It's another e-mail from the defendant, a few
5 weeks later, on July 24th, 2008, again to Anwar Awlaki's e-mail
6 account. And it's signed from Abdul Bari. Generally provides
7 thanks for the previous guidance, states that everything is
8 going well and "I've been working towards some specific
9 attainable goals with respect to that e-mail attachment you
10 sent. Thanks for the information and advice. I'll be in
11 touch. I will be needing your help and input on some things."

12 Q. Let me go to what's admitted as Government's Exhibit Number
13 76 and have you take a look at that particular e-mail. Tell me
14 what Government's Exhibit 76 is.

15 A. I recognize this. It's an e-mail that's generated by Anwar
16 Awlaki's website at the time. And it goes -- in this case, on
17 September 23rd, 2008, it went to Abdul_Bari05@Yahoo.com. And
18 it's -- oftentimes these are notices about a new sermon or
19 article written by Anwar Awlaki, and that's what this is.

20 Q. Okay. And in particular, the focus of this is hijrah. Is
21 that correct?

22 A. Yes. It's telling the person that receives this that
23 there's been a new -- in this case, I don't remember if it was
24 audio or video -- dealing with what the title implies, "Hijrah
25 for the Sake of Islam."

12:51 1 Q. What is "hijrah"?

2 A. "Hijrah" is a migration. It has a history within the
3 Islamic faith and in the history of the Arabic the people in
4 the Arabian Peninsula. But it essentially means a Muslim
12:51 5 moving across a boundary in order to go to be with other
6 Muslims.

7 Q. How is "hijrah" defined in the "42 Ways to Support Jihad"
8 as written by Anwar Awlaki?

9 A. It's one of the actual 42 ways. It has its own paragraph.
12:52 10 And to paraphrase it, it -- it is obligatory, in order to
11 commit jihad, that the in that you have to travel and commit
12 hijrah in order to get overseas in order to fight. And it's
13 necessary. Someone who makes hijrah, if anything happens along
14 the way, they obtain credit or some sort of glory for the
12:52 15 attempt to go overseas.

16 Q. And is there --

17 THE COURT: Pull that mike in a little bit.

18 No. Lift it up. Get a little bit closer or move
19 it in just a little bit. You're carrying okay, but it will
12:52 20 help.

21 By the way, as we get to 1:00 o'clock, when you
22 reach a good breaking point, do so. I'll leave it to you, when
23 we get close to 1:00 o'clock.

24 MR. MCINTYRE: Yes, your Honor.

12:52 25 BY MR. MCINTYRE:

1 Q. If we look at Government's Exhibit Number 78 and highlight
2 the top portion.

3 And this is a particular e-mail. Is that
4 correct?

5 A. Yes, sir. It's just a very short while after the one we
6 just looked at. It's from Abdul Bari to Anwar Awlaki, dated
7 September 25th, 2008.

8 Q. And what does Mr. Bari tell Mr. Awlaki about what he's
9 planning to do?

10 A. It says -- he stated he's looking to make hijrah as soon as
11 possible; he doesn't completely know Arabic, but he's learning;
12 he's asking for advice or suggestions and ideas; and he's
13 looking forward to a response.

14 The same theme, going to make hijrah, need to
15 learn Arabic, those are things I saw throughout the
16 investigation.

17 Q. This was dated September 25th of 2008. Is that correct?

18 A. Yes, sir.

19 Q. I show you what's marked as Government's Exhibit Number 85.
20 And tell me what you know about this particular e-mail.

21 A. It's another e-mail from the account to the account. It's
22 dated November 24th, 2008. It's entitled "As-Shabaab Article."
23 And, again, it has a link to a news article that's obtainable
24 on the Internet.

25 Q. And if we go to Government Exhibit 86, that's the

1 attachment to Government's Exhibit 85. Is that correct?

2 A. Yes. That's what the article was at the time we went to
3 look at that link.

4 Q. What's the title of that article, and what's the substance
5 of it?

6 A. The title is "Shabaab Leader Sanctioned as Zawahiri
7 Responds to Group's Oath of Loyalty." And, essentially, it's a
8 news article talking about -- there's a group called
9 al-Shabaab, which is a movement -- a designated terrorist
10 organization in Somalia.

11 About the time of this article, there had been
12 some reported contacts between al-Shabaab and al-Qaeda and this
13 is talking about how Ayman -- or Ayman al-Zawahiri, who is
14 currently the head of al-Qaeda after Osama bin Laden was
15 killed, responding that they're going to have -- basically an
16 affiliate of al-Qaeda.

17 Q. Government's Exhibit 87 is another e-mail. Is that
18 correct?

19 A. Yes, sir.

20 Q. And what is the subject line on this?

21 And it's e-mail from Mr. Bari to Mr. Bari or --

22 A. Again, it's dated December 1st, 2008. It's from Abdul Bari
23 to Abdul Bari; and, again, it's another link to a news article.

24 Q. Previously admitted Government's Exhibit Number 88 is that
25 article. Is that correct?

1 A. Yes, sir.

2 Q. And what's the title of the article that Mr. Bari -- that
3 went from Abdul Bari to Abdul Bari?

4 A. It's, "Al-Qaeda to Obama: Welcome Aboard."

5 Q. I show you what is marked as Government's Exhibit Number
6 91. Can you tell me what Government's Exhibit Number 91 is?

7 A. It's an e-mail from a different Islamic dating site,
8 Qiran.com. It's dated December 14th, 2008. And it's from the
9 website to Abdul_Bari05@Yahoo.com.

10 These are common. We saw them throughout the
11 course of looking at his e-mail accounts. He was on multiple
12 dating sites in order to find wives. And it's addressed to
13 Abdul Bari, with his screen name on that site, which is
14 A_B_Jihad.

15 Q. I show you what is marked as Government's Exhibit 95. Who
16 is this e-mail from and to, and what's the date?

17 A. It's dated January 21st, 2009. It's from the defendant to
18 the defendant.

19 THE COURT: When you say "from the defendant to the
20 defendant," but what's -- where did it come from?

21 THE WITNESS: It's Abdul_Bari05@Yahoo.com e-mailed to
22 Abdul_Bari05@Yahoo.com.

23 THE COURT: What did he do? Did he write his own
24 letter and then send himself a copy?

25 THE WITNESS: Based on the number of e-mails I saw,

1 your Honor, he would start a project, e-mail it to himself in
2 order to come back to it at a later time.

3 THE COURT: Okay.

4 THE WITNESS: And then it would already be written.

5 THE COURT: Could be a draft?

6 THE WITNESS: That's what I believe it is, your Honor.

7 THE COURT: Okay.

8 BY MR. MCINTYRE:

9 Q. And let me show you what has been admitted as Government's
10 Exhibit 95. It's a little bit hard to read up on the screen.

11 And who did you believe Mr. Bujol sent this -- or
12 drafted this e-mail to?

13 A. Anwar Awlaki.

14 Q. And what makes you believe that?

15 A. It's addressed to "The Sheikh," which is an honorific that
16 has been used previously for Anwar Awlaki. And it's a
17 continuation of themes that were already discussed with Anwar
18 Awlaki. For example, leaving school, making hijrah, guidance.

19 Further down, on Paragraph 2, it talks about
20 wanting to follow in the path of jihad -- or of Allah, if you
21 see how it's signed, "Your brother and willing soldier in the
22 path of Allah." So, all that together makes me believe it was
23 meant for Anwar Awlaki.

24 Q. And was there also a portion in there where Mr. Bujol
25 states that he's studied his lectures, read the books of

1 Mr. Awlaki?

2 A. Yes.

3 Q. And, essentially, is it fair to say what he's trying to
4 decide is whether to take his scholarship money that he's
5 received, or financial aid money, and then immediately make
6 hijrah or finish school? Is that correct?

7 A. Yes. It's a continuation of multiple attempts to gather
8 advice from alQaeda33 and other people, Anwar Awlaki, Jihad
9 Fields moderator. In this particular instance, saying he's in
10 his last semester at university. "I've got some scholarship
11 money. If I leave now, I have the money to do so. If I wait,
12 given the economy under" -- what he calls the "new emperor,
13 Obama," he may not have the money to do so later.

14 And that, again, goes back to my reading of the
15 "42 Ways." One of them is direct: Muslims should not wasting
16 their time obtaining degrees that don't help their religion.
17 They should travel overseas to fight.

18 THE COURT: We'll take a break at this time. A little
19 bit of scheduling that you may not be aware of. It's something
20 that's on my calendar, involving a number of judges. So, on
21 Thursday, we will begin at 10:00 and go straight through to
22 2:00 o'clock, with some breaks, and adjourn for the day
23 Thursday, November 10th, at 2:00 p.m. or 1:45, something like
24 that.

25 Also, as you all know -- or many of you know,

01:00 1 being federal employees, the courthouses are closed around the
2 country on Friday. It's Veteran's Day; so, we'll not be in
3 session this Friday. So, I just want to give you a heads up as
4 to the end of the week.

01:00 5 We're in absolutely no rush. Nobody is going to
6 get pushed time wise in this case. But I thought I would let
7 you know as far as we can ahead of time what the schedule is.

8 It's now about a minute after 1:00. We'll take
9 our break at this time. Please be back, ready to resume, at
01:00 10 2:15. I'll see you at that time.

11 *(Recess was taken)*

12 THE COURT: Thank you. Be seated.

13 Okay. Let's continue. Shall we?

14 BY MR. MCINTYRE:

02:19 15 Q. Agent Cannon, when we left off, we were going over some of
16 the e-mails that you recovered from the Yahoo! e-mail account
17 that we previously referenced. Is that correct?

18 A. Yes, sir.

19 Q. I have a few more of those I want to talk to you about. I
02:19 20 can show you Government's Exhibit 101.

21 THE COURT: Let me do this. Any time, if I can't see
22 or whatever, any time you play a tape, I want to have somebody
23 at your table just run up -- you see there's one of those
24 switches has kind of a little white -- what is it -- a little
02:20 25 white sticker on it? Just go and turn them off. Okay?

02:20 1 Whenever it's appropriate.

2 Because it's a lot easier for me to see as well
3 as everybody else. Okay? If it's a short thing -- but if it's
4 anything of any extended length or anything you really want us
02:20 5 to see, turn it off and turn it back on.

6 MR. McINTYRE: Yes, your Honor.

7 THE COURT: All right. Go right ahead.

8 BY MR. McINTYRE:

9 Q. Let me show you what's marked --

02:20 10 THE COURT: Wait a second.

11 For the record, Mr. Bujol, when your time comes,
12 if you want the lights off, let us know; and one of us will go
13 do it. All right?

14 THE DEFENDANT: All right.

02:20 15 THE COURT: Let's go.

16 BY MR. McINTYRE:

17 Q. I show you what is marked as Government's Exhibit 101. And
18 can you tell me who this e-mail is from, who it's to, and when
19 it was received?

02:20 20 A. Yes. It's from Anwar Awlaki's website. It's dated January
21 23rd, 2009, and it's to Abdul_Bari05@Yahoo.com.

22 Q. And what is this article referencing?

23 A. It's another posting by Anwar Awlaki, posted on his
24 website. Because this e-mail account was registered as a -- on
02:21 25 the distribution list --

0 2 : 2 1 1 THE COURT: What's that mean?

2 THE WITNESS: There's a spot on the bottom of the
3 e-mail -- if you go to the website, if you check -- if you
4 enter your e-mail address, you can join the e-mail address in
0 2 : 2 1 5 order to be provided periodic updates via e-mail. And this is
6 another example of one of those.

7 It's entitled "Suicide or Martyrdom?" It's a
8 question. And it continues to go into -- the thing that
9 strikes me about it -- this is in English, again. Again,
0 2 : 2 1 10 that's the audience that Anwar Awlaki catered to.

11 There's mention of as-sadiqeen, which is
12 mentioned in here a few times. It has to do with the most
13 righteous. Those are the people that -- in jihadi circles,
14 they are put in at a higher level or upon a pedestal, if you
0 2 : 2 1 15 will, because they're willing to go forward and fight and die
16 for their religion.

17 Q. And if you go to the second page and look at the last
18 paragraph, there's some information in this regarding --

19 THE COURT: Counsel, just aim the mike toward you.
0 2 : 2 2 20 You don't have to pull it any further.

21 Thank you. We have a new system put in. So, I'm
22 proud of the system. It will pick you up. Go on.

23 MR. McINTYRE: Yes, your Honor.

24 BY MR. McINTYRE:

0 2 : 2 2 25 Q. In the last paragraph, there's information where al-Awlaki

0 2 : 2 2 1 talks about martyrdom operations. Is that correct?

2 A. Yes.

3 Q. What does Mr. Awlaki speculate about in this "Suicide or
4 Martyrdom?" article he's written?

0 2 : 2 2 5 A. "Today the world turns upside down when one Muslim performs
6 a martyrdom operation. Can you imagine what would happen if
7 that is done by 700 Muslims on the same day?"

8 Q. Let me also take you to Government Exhibit Number 70, which
9 is an e-mail off the Abdul_Bari account. Who is this from and
0 2 : 2 3 10 to?

11 A. It's from the defendant, using the e-mail address
12 Abdul_Bari05@Yahoo.com, to the same e-mail address. It's dated
13 August 6, 2008; and it's entitled, "Check this out," with
14 double exclamation points.

0 2 : 2 3 15 Q. And, again, this is from the Abdul_Bari account to the
16 Abdul_Bari account so that he can save it for future reference.
17 Is that right?

18 A. Exactly. It was common throughout, looking at search
19 warrant results, that he would do this periodically for any
0 2 : 2 3 20 number of things.

21 Q. And in the subject line, is there something written in the
22 subject line regarding this particular e-mail?

23 A. It says, "Check this out," double exclamation points.

24 Q. And on that e-mail, there's an attachment. Is that
0 2 : 2 3 25 correct?

02:23 1 A. There's a link to a website. And we went to that link and
2 viewed it near in time to when we received this e-mail and
3 downloaded the video that was at that link.

4 Q. And that video is listed as Exhibit Number 71 and it's
02:24 5 previously been admitted and I'm going to show you a portion of
6 that video and ask you for your comments on it.

7 *(Tape playing)*

8 BY MR. MCINTYRE:

9 Q. What is significant about this portion of Government's
02:25 10 Exhibit Number 71?

11 A. It's a video about al-Qaeda and Yemen, and you can see the
12 recently deceased Osama bin Laden, who was the head of
13 al Qaeda. There's also, in the upper right-hand corner of the
14 screen, a mujahideen fighter, had a rifle, a Kalashnikov rifle
02:26 15 across his back and is walking towards what's a -- it's an
16 improvised rocket, basically a bipod with a rocket in order to
17 launch it.

18 Q. Let me show you another small clip from this same exhibit
19 and then ask for your comments on this particular --

02:26 20 *(Tape playing)*

21 BY MR. MCINTYRE:

22 Q. And, Agent Cannon, what did you find significant about --
23 again, this is Exhibit 71, and a clip of that, even though it's
24 a longer video and audio?

02:28 25 A. Well, again, it has to do with al Qaeda and Yemen. And the

02:28 1 overall context is attacking oil facilities in the Arabian
2 Peninsula. The man was masked. So, he was clearly -- given
3 the imagery and all the icons on the screen, had to do with
4 jihadi, mujahideen, supporting the mujahideen, and attacks in
02:28 5 Yemen, by a group in Yemen.

6 Q. Now, after you viewed these e-mails we previously discussed
7 and based on your surveillance in the case of Mr. Bujol, did
8 you start to form a belief that Mr. Bujol might leave the
9 country?

02:28 10 A. We operated under that belief from the beginning because of
11 the things that were said on the Internet, about selling a
12 vehicle, the passport application, requesting a passport, and
13 mentioning six Middle Eastern countries to travel, the postings
14 on Jihad Fields, the questions and the context to Anwar Awlaki
02:29 15 about hijrah. There are multiple of those. So, we were always
16 assuming he was going to leave at any moment.

17 And when you see -- when we saw things like this,
18 specifically about Yemen and his interest in Yemen, we thought
19 that's where he might be headed.

02:29 20 Q. Now, on -- during this period of time, which is beginning
21 of 2009, did you become aware that the defendant had warrants,
22 traffic warrants?

23 A. Yes, we did.

24 Q. And how did you become aware of that?

02:29 25 A. During the course of the investigation, as we identified

02:29 1 the defendant, we ran him through different databases. And,
2 then, as we -- throughout the case, we would always check that.
3 And along the way, we found out that he had some outstanding
4 warrants out of the City of Katy, Texas.

02:29 5 Q. Let me show you what is marked as Exhibit 25, Page 1. And
6 can you tell me what Page 1 of Exhibit 25 is?

7 A. It's a copy of a booking sheet for Waller County Sheriff's
8 Office.

9 Q. And if we go to Page 3 of this same document, what kind of
02:30 10 information is on Page 3 of this document?

11 A. This is a warrant confirmation, comes across the computer,
12 teletype, that -- it confirms that the person, in this case
13 Barry Walter Bujol, had outstanding warrants. In this case
14 there's three.

02:30 15 Q. And during the course of your surveillance of Mr. Bujol,
16 did you come to learn he was driving without a license and
17 without insurance?

18 A. Yes.

19 Q. Now, based on the information you had, did you enlist the
02:30 20 help of the Waller County Sheriff's Department?

21 A. Yes, we did. We found out about the warrants and informed
22 them that the warrants existed and then asked for their
23 cooperation to serve those warrants at a time and place that
24 would most assist our case.

02:31 25 Q. And when were those warrants served on Mr. Bujol?

0 2 : 3 1 1 A. February 13th, 2009.

2 Q. And where was he arrested when those warrants were served?

3 A. He was arrested on Pine Island Road in Hempstead, Texas, on
4 his way back to his apartment.

0 2 : 3 1 5 Q. And was anything of significance to the investigation
6 recovered during that investigation?

7 THE COURT: Hold it one second.

8 *(Court confers with staff)*

9 THE COURT: I'm sorry. Go right ahead.

0 2 : 3 2 10 BY MR. McINTYRE:

11 Q. Was there anything recovered during the serving of the
12 warrants, that related to Mr. Bujol and Prairie View A~&~M
13 University?

14 A. Yes. The reason we chose that day is he often carried a
0 2 : 3 2 15 small backpack and we knew he had it that day. So, he was
16 arrested. Inside that backpack, after he was arrested, there
17 was a form from Prairie View A & M from the registrar's office
18 and it was a form that you had to fill out in order to withdraw
19 from classes.

0 2 : 3 2 20 Q. And based on the knowledge that you had of the e-mails
21 between Mr. Bujol and Mr. Awlaki, about whether to essentially
22 take the scholarship money and drop out of school and commit
23 hijrah and travel overseas or whether to stay in school, did
24 that inform your opinion in any way in regards to what
0 2 : 3 3 25 Mr. Bujol might be fixing to do?

0 2 : 3 3 1 A. Absolutely. We were under the impression at that point --
2 we had seen him for awhile, watched him. And he had gone to
3 classes in 2008. But in 2009 -- we're in February now -- he
4 had no longer had gone to class. He would still go to the
0 2 : 3 3 5 library to use the computer. And he was making preparations,
6 it looked like, to travel.

7 And once we saw that form, it just confirmed what
8 we had seen in the e-mails and what he had said to Anwar
9 Awlaki, that he was planning on making hijrah. So, in our
0 2 : 3 3 10 mind, we thought travel was imminent.

11 Q. Now, he was arrested on February 13th. Do you know how
12 long he was held in jail on these traffic warrants?

13 A. It was hours, maybe, no more than a day, that I recall.

14 Q. And did you receive some information on February 15th
0 2 : 3 3 15 regarding Mr. Bujol and what sort of activities he was engaging
16 in?

17 A. Yes. At that point we had pretty heavy surveillance on
18 Mr. -- the defendant, his apartment complex, his vehicle,
19 because we thought it was imminent. And, again, our job was to
0 2 : 3 4 20 make sure no acts of terror took place. And we didn't
21 understand -- if he would leave for and how he would leave the
22 country, who he would leave the country with, anybody help him.
23 So, on the 15th, we saw some activity at his house that
24 suggested he was going to leave the country and --

0 2 : 3 4 25 Q. Okay. What did you do once you saw some activity that he

0 2 : 3 4 1 might leave the country?

2 A. We had previously planned for this. We had -- we took
3 shifts, people watching. And then there were -- people that
4 were not on shift were the first person to be called in case he
0 2 : 3 4 5 left. We anticipated he probably would fly, given the
6 passport, things like that.

7 So, our plan was -- we had obtained a -- there
8 was a warrant outstanding for his driving without a license,
9 and we instituted surveillance in Hempstead and followed him
0 2 : 3 5 10 to -- the defendant to Intercontinental Airport. He was in the
11 car of a professor, an Egyptian professor at Prairie View
12 A & M.

13 Q. When did you become --

14 THE COURT: Wait. Say that again.

0 2 : 3 5 15 THE WITNESS: He was in the car of an Egyptian
16 professor at Prairie View A & M, being driven to the airport.

17 THE COURT: Does the professor have any importance to
18 this case or not? Or not at this time?

19 THE WITNESS: Not at this time, your Honor.

0 2 : 3 5 20 THE COURT: All right.

21 BY MR. MCINTYRE:

22 Q. You said you had a plan for when Mr. Bujol tried to fly out
23 of the country. And, essentially, what was that plan?

24 A. It was to immediately institute physical surveillance to
0 2 : 3 5 25 determine where he was going, who he was going with, possibly

0 2 : 3 5 1 to gather some information on his intentions, specifically --
2 again, he lives in Hempstead. Our office is in the
3 Bryan/College Station area. So, we had to institute
4 surveillance from a distance and catch up.

0 2 : 3 6 5 And we had obtained a warrant. Previously, one
6 of our task force members had gone to a justice of the peace in
7 Waller County and had obtained a warrant for the defendant
8 driving without a license. And our plan was to, whatever
9 airport he went to, notify the authorities there, inform them
0 2 : 3 6 10 of the warrant, and request that he be arrested under those
11 charges.

12 Q. Let me show you what is marked as Exhibit Number 26. And
13 if we go to Page 2.

14 Is that the warrant you're referencing that you
0 2 : 3 6 15 had in place for -- or was in place for Mr. Bujol on the 15th?

16 A. Yes, sir.

17 Q. And who was that signed by?

18 A. Ted Krenek, Justice of the Peace, Precinct 4, Waller
19 County, Texas.

0 2 : 3 6 20 Q. And, so, once the surveillance in this case determined that
21 Mr. Bujol was going to the airport with this other Egyptian
22 professor, what steps did you take to prevent him from flying
23 out of the country?

24 A. We contacted the Houston Police Department by phone and
0 2 : 3 7 25 then eventually in person, informed them of the presence of the

0 2 : 3 7 1 warrant, requested that they execute the warrant prior to the
2 defendant traveling but after the defendant got his ticket and
3 went through security, to make sure we knew where he was going
4 and to positively ID him.

0 2 : 3 7 5 Q. And was the defendant arrested at the airport?

6 A. He was.

7 Q. And at the time he was arrested, where was the defendant
8 flying to?

9 A. To Sana'a, Yemen, by way of Abu Dhabi.

0 2 : 3 7 10 THE COURT: What does that mean?

11 THE WITNESS: "Sana'a"?

12 THE COURT: What was that first --

13 THE WITNESS: Sana'a is the capital of Yemen.

14 THE COURT: Of Yemen?

0 2 : 3 7 15 THE WITNESS: Yes, sir.

16 THE COURT: Okay.

17 THE WITNESS: And by way of Abu Dhabi, which is United
18 Arab Emirates, on an Emirates airline.

19 BY MR. MCINTYRE:

0 2 : 3 8 20 Q. And he had previously purchased his ticket. Is that
21 correct?

22 A. I'm not sure if he purchased it that day, but he did have a
23 ticket in hand.

24 THE COURT: Now, the Emirates Airlines, was that
0 2 : 3 8 25 non-stop all the way?

0 2 : 3 8 1 THE WITNESS: It was scheduled -- that particular
2 flight was scheduled to stop in Abu Dhabi, and it was a
3 layover --

4 THE COURT: That's what I mean. It was non-stop all
0 2 : 3 8 5 the way to the Middle East.

6 THE WITNESS: Yes, sir.

7 BY MR. MCINTYRE:

8 Q. When the defendant was arrested, was there anything that
9 was obtained from him or his person that might have been of
0 2 : 3 8 10 significance to you?

11 A. At his time of arrest, he was allowed to give most of his
12 possessions to his wife -- or the person purporting to be his
13 wife. His luggage was probably somewhere down below, in the
14 airport; so, he didn't have it at the time of arrest.

0 2 : 3 8 15 But on his person, when he was booked in,
16 personal property, he had two thumb drives, which are small
17 external digital storage devices used commonly.

18 Q. I show you what is marked as Exhibit Number 47. And is
19 Exhibit 47 the thumb drives that were taken from the defendant
0 2 : 3 9 20 on the 15th?

21 A. Those -- yes.

22 Q. Now, after the defendant was arrested at the airport,
23 trying to fly to Yemen, how much time did he spend in jail?

24 A. It was approximately 10 days, I believe. Maybe 12.

0 2 : 3 9 25 Q. And after he was released from jail for these traffic

02:39 1 tickets, did you and other agents maintain surveillance on him?

2 A. We did. When he was arrested, his vehicle was towed. And
3 that was the vehicle that we had originally seen him in, the
4 Nissan sedan. He never got it out of the tow yard; so, he
02:39 5 started to drive a white Geo Prizm registered to Ernestine
6 Johnson. So, we conducted spot surveillance on him after he
7 got out of jail.

8 Q. Was there anything that changed in relationship to his
9 phone usage?

02:40 10 A. We had obtained a pen register order, court order, for a
11 phone. And then he dropped --

12 THE COURT: What's a "pen" -- I know what it is; but,
13 for the record, what's a "pen register"?

14 THE WITNESS: It's a court order that allows the
02:40 15 requesting agency to intercept phone call information: to and
16 from; duration of phone calls; but, again, no content. It's
17 not a wiretap.

18 BY MR. MCINTYRE:

19 Q. And what did you find out about the phone that you had the
02:40 20 pen register on?

21 A. The same week that we had it signed, the defendant canceled
22 the service on that phone.

23 Q. And what can you tell the Court about whether the defendant
24 was attending or not attending classes at Prairie View after he
02:41 25 was released from jail?

0 2 : 4 1 1 A. He was no longer attending classes. However, he was
2 traveling to the campus for prayers and to use the computer on
3 campus and to visit the professor I mentioned earlier.

4 Q. And where did the defendant go to worship and pray at the
0 2 : 4 1 5 Prairie View campus?

6 A. The All Faiths Chapel.

7 Q. Now, did you receive information on March the 21st of 2009
8 regarding Mr. Bujol in Canada?

9 A. I did. I was contacted by telephone from US Customs
0 2 : 4 1 10 informing me that Barry Bujol, the defendant, had just crossed
11 back into the United States at the port of crossing in Detroit,
12 the Windsor crossing and that he had been rejected for entry
13 into Canada and he was driving the white Geo Prizm -- or he was
14 last seen in the white Geo Prizm that I mentioned before.

0 2 : 4 2 15 Q. And what did you learn about how Mr. Bujol and his wife
16 tried to enter Canada; what was the procedure that they used?

17 A. The defendant traveled by Greyhound Bus a couple of hours
18 after Ernestine Johnson and the defendant's child attempted to
19 enter in the Geo Prizm, through the Windsor Tunnel.

0 2 : 4 2 20 She was stopped in accordance with their
21 secondary procedures. And as she was being denied entry, the
22 defendant arrived on a Greyhound Bus. And he was denied entry,
23 and they were both escorted out of Canada, in their vehicle.

24 THE COURT: Was there any linkup of the two at that
0 2 : 4 2 25 time up there by the Canadian authorities or they were just

0 2 : 4 2 1 turned back?

2 THE WITNESS: Initially, there was not. But when the
3 defendant arrived on the Greyhound Bus, he had to get off of
4 the bus in order to go through, and show his passport and go
0 2 : 4 2 5 through screening. At that point in time he was able to
6 observe his wife. The Canadian authorities interviewed them
7 both, connected them; and then, through their own laws, denied
8 them entry, both entry.

9 BY MR. MCINTYRE:

0 2 : 4 3 10 Q. So, after March 21st, 2009, and the defendant had been
11 denied entry into Canada, did you try to locate the defendant,
12 knowing that information?

13 A. Absolutely. I mean, our number one goal in February and
14 continued till the end of the case was we can't allow
0 2 : 4 3 15 situations where there could be an act of terrorism. And given
16 what I knew about the defendant at the time, all the e-mails,
17 the videos that we've looked at, I mean, I was concerned. Our
18 agency was concerned that he may take matters into his own
19 hands and do something. So, I didn't know that he was going to
0 2 : 4 3 20 Canada; but once he did that, we continued to look for him.

21 Q. Were you immediately able to locate the defendant after he
22 was turned back from Canada on March 21st of 2009?

23 A. No, we were not.

24 Q. When was the next date that you were able to locate or
0 2 : 4 4 25 determine where the defendant was?

02:44

02:44

02:44

02:45

02:45

02:45

1 A. On March 25th of 2009 we were contacted by a member of the
2 Newark, New Jersey, Joint Terrorism Task Force, who is a member
3 of the New Jersey State Police. He contacted our office and
4 spoke with us, that the New Jersey State Police located the
5 defendant in the course of one of their investigations. And
6 they wanted to pull him over based off of his suspicious
7 activity. But they found out that we had a case on the
8 defendant; and they did not want to institute a traffic stop or
9 begin any kind of investigative activity because they didn't
10 want to damage whatever kind of case we had, because they
11 didn't know.

12 Q. What did you advise them in that regard?

13 A. Well, we advised them that if they had already planned on
14 initiating a traffic stop, go ahead, "But if you do, here's
15 some things we would like to know: where is he going, who is he
16 with," get some information like that.

17 They informed us that he was driving on a
18 suspended license. They already knew that at that point. So,
19 they could pull him over at any moment.

20 Q. And the defendant was pulled over on March the 25th. Is
21 that correct?

22 A. Yes.

23 Q. What transpired after the defendant was pulled over?

24 A. He was contacted by the New Jersey State Police. There was
25 a roadside interview. Consent to search of the vehicle was

0 2 : 4 5 1 provided by the defendant. I believe there was a drug dog that
2 came forward. It was called to the scene to look for
3 narcotics, because it was a narcotics unit of the New Jersey
4 State Police that ran into him.

0 2 : 4 5 5 Q. And was the defendant arrested in New Jersey?

6 A. He was.

7 Q. And some of the items that were seized from the defendant
8 or his person or his vehicle are listed in the trial exhibits
9 and have previously been admitted. Is that correct?

0 2 : 4 6 10 A. Yes.

11 Q. Let me show you what is marked as Exhibit 31, and tell
12 me -- and have you describe what Exhibit 31 is.

13 A. It's a photocopy of a page written in English, taken out of
14 a spiral bound notebook. It appears to me to be a workout
0 2 : 4 6 15 regimen.

16 Q. And let me show you what is marked as Exhibit 32. And can
17 you tell me what Exhibit 32 is?

18 A. It's a copy of a Texas Department of Health "Child Health
19 Record" form for Najya Bujol, who I know to be the defendant's
0 2 : 4 6 20 daughter.

21 Q. And is there any information in reference to where the
22 defendant or his daughter is going to be traveling to?

23 A. Yes. Under the section of "Child's Health," and written it
24 says, "Going to Yemen on Sunday." And I think it says, "five
0 2 : 4 7 25 days, duration unknown."

02:47

1 Q. If we go to Government's Exhibit Number 33, what is
2 Government's Exhibit Number 33?

02:47

3 A. It's a photocopy of the exterior of an audio CD written --
4 or recorded by Anwar Awlaki, and it's part of a series of his
5 lectures entitled "The Hereafter."

02:47

6 Q. And in smaller print, on the left-hand side, is there
7 something that's call the "Introduction"?

8 A. Yes. If you look at the top of the CD, this is Volume 1,
9 CD-1, of the entire series. And the title of this particular
10 volume is "Introduction, The Importance of Akhirah - Death."

02:48

11 Q. And if we go to Government's Exhibit Number 35.

12 And can you tell me what Government's Exhibit
13 Number 35 is, and where it was recovered?

14 A. It was photocopied by the New Jersey State Police as part
15 of the consent to search. It was found inside his car, the
16 defendant's car, in New Jersey. It is a printout of an
17 Internet page that lists links to a number of Anwar Awlaki's
18 audio and written products and also some videos.

02:48

19 Q. And that was recovered in hard copy form in the defendant's
20 vehicle. Is that correct?

21 A. Yes.

02:49

22 Q. And if we go to the last page of that particular exhibit
23 and look at the -- and if you look at the top portion, is there
24 a link for a document that looks somewhat similar to what
25 Mr. Awlaki sent Mr. Bujol in e-mail format?

0 2 : 4 9 1 A. Yes. There's a link in the upper left-hand corner, and
2 it's entitled "44 Ways of Supporting Jihad." That's what's
3 available on the Internet at the time. The "42 Ways of
4 Supporting Jihad," which was sent to the defendant was not
0 2 : 4 9 5 available on the Internet at the time and -- it's an earlier
6 version of the 44 ways.

7 Q. Show you what is marked as Government's Exhibit Number 36.
8 And, again, this is a document that was recovered from the
9 defendant. And can you tell me what it refers to?

0 2 : 4 9 10 A. It's a photocopy of some handwritten directions taking
11 someone from New Jersey to New York. And there's -- on the
12 bottom left there's -- "E-Air" is written there, which I think
13 is Egyptian Air. And, then, on the bottom right, it says,
14 "Friday, pay with cash, partial, one way, multi-destination."

0 2 : 5 0 15 So I believe that was notes he was taking talking to someone
16 about buying a ticket.

17 Q. And if you look in the left-hand portion, it says --
18 there's a reference to, "80 to George Washington" and "JFK."
19 What do you believe "JFK" references?

0 2 : 5 0 20 A. I believe it's JFK Airport.

21 Q. Go to Government's Exhibit Number 37, and can you tell me
22 what Government's Exhibit Number 37 is?

23 A. It's an Emirates Airline E-ticket receipt and itinerary in
24 the name of Barry Bujol; and it's for the trip that he
0 2 : 5 0 25 attempted to make on February 15th, 2009.

02:51

1 Q. And where is his final destination on this one-way ticket?

2 A. Sana'a, Yemen.

3 Q. I show you what is marked as Government Exhibit Number 44.

4 And this is a picture of something that was recovered from the
5 defendant's car. Can you tell me what this is?

6 A. This is a photocopy of the exterior of the CD wallet that
7 contained the "Hereafter" Series. So, inside it, were sleeves
8 to place individual CDs in.

9 Q. And, again, who is the author of these CDs?

02:51

10 A. Anwar Awlaki.

11 Q. And if you would go to Government's Exhibit Number 45, can
12 you please tell me what that document is?

13 A. It's a printout from the Internet for Greyhound Bus
14 schedules from Detroit to Ontario -- or to London, Ontario, on
15 March 21st, 2009.

02:51

16 Q. And does that correspond to the day that he was denied
17 entry into Canada, along with his wife?

18 A. Yes.

19 Q. Now, after Mr. Bujol was arrested, did you fly to New
20 Jersey and attempt to interview Mr. Bujol?

02:52

21 A. Yes, sir.

22 Q. And can you tell me how that transpired?

23 A. Again, this is the third time, at this point, that the
24 defendant attempted -- we believe attempted to travel overseas.

02:52

25 And given what I knew about what he had e-mailed himself,

0 2 : 5 2 1 questions he had asked of someone I was very concerned about,
2 Anwar Awlaki, and some of his other activities, we needed to
3 talk to him in order to determine was there anybody else in
4 Jersey that maybe shared his views, what were his plans, why
0 2 : 5 2 5 was he in Jersey with about \$5,000 in his sock, which was what
6 was recovered, what were his overall intentions. Because,
7 again, our mind-set is to prevent acts of terror or acts that
8 support terror.

9 Q. And what was the date that you attempted to interview
0 2 : 5 3 10 Mr. Bujol?

11 A. I believe it was -- it was either March 29th or March 31st.
12 I don't recall.

13 Q. Let me show you what is marked as Government's Exhibit
14 Number 46 and see if that refreshes your memory. Can you tell
0 2 : 5 3 15 me what Government's Exhibit 46 is?

16 A. This is an FBI "Advice of Rights" form. And it's a written
17 in English version, call it an "FD-395."

18 Q. And what's the date of that advice that was given in this
19 case?

0 2 : 5 3 20 THE COURT: Is that what, in effect, is usually known
21 as a "Miranda warning"?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay.

24 THE WITNESS: The date is March 31st, 2009.

0 2 : 5 3 25 BY MR. MCINTYRE:

0 2 : 5 3 1 Q. Is that the day that you would have attempted the interview
2 with Mr. Bujol?

3 A. Yes, sir.

4 Q. And in the bottom there's a signature, stating he's been
0 2 : 5 4 5 read his rights, understands them, and he's willing to answer
6 questions without a lawyer present. Is that correct?

7 A. Yes, sir.

8 Q. Is that Mr. Bujol's signature?

9 A. Yes, sir.

0 2 : 5 4 10 Q. And, so, after you Mirandized him and read him his rights
11 and he agreed to talk with you, what sort of plan did you and
12 the co-case agent in this case come around to in regards to how
13 you would represent yourself to Mr. Bujol during the course of
14 this interview?

0 2 : 5 4 15 A. We weren't given a lot of time to prepare for the
16 interview, just given the nature of us not knowing he was going
17 to be in New Jersey or Canada. So, we prepared to start out
18 acting as if we didn't know anything. But we had a few backup
19 plans that, if we were forced to, we would confront him with
0 2 : 5 4 20 everything we knew at that point.

21 So, we posed as local JTTF agents that, as a
22 matter of course, were called by the local police based off of
23 things they saw in the car and specifically the CD from Anwar
24 Awlaki that said "Importance of Death," and we were just going
0 2 : 5 5 25 to come out and -- we called it a "referral" -- we were just

0 2 : 5 5 1 coming out to get a gauge of who he was, clear his name, and
2 then move on to the next referral.

3 Q. So, the representation was that these items had aroused the
4 suspicion of the local JTTF and you wanted to ask him about the
0 2 : 5 5 5 items that had been recovered from his car. Is that correct?

6 A. It aroused the suspicion of the local police; and, then,
7 their procedures would have been to call someone on the JTTF
8 for a second opinion, basically, about those items, not about
9 the charge that he was arrested under. No stone unturned kind
0 2 : 5 5 10 of philosophy.

11 Q. So, during the course of the interview, what did Mr. Bujol
12 tell you regarding his travel plans?

13 A. He told us that he had planned to travel to Yemen
14 previously, meaning in February; that he was stopped; that he
0 2 : 5 5 15 had since reconsidered Yemen may not be the best destination;
16 and he was going to try to go to Egypt to learn Arabic.

17 Q. How did he say he was going to Egypt?

18 A. He said that he was on his way to purchase a ticket the day
19 that he was pulled over and then arrested by the New Jersey
0 2 : 5 6 20 authorities. The way he described it to me was he was going to
21 an actual Egyptian Air ticket office, which was, I believe,
22 near Madison Square Garden or Times Square, one of those, and
23 he was going to purchase it and then the next day come pick it
24 up and travel. In the meantime, he was going to visit the
0 2 : 5 6 25 sights with his family.

02:56

1 Q. Did you question Mr. Bujol about whether he had gone to
2 Mr. Awlaki's sites or he had had any communications with
3 Mr. Awlaki?

02:56

4 A. We did. We started with the CDs that we've already talked
5 about and just asked how he came into possession of those, what
6 he understood about Anwar Awlaki. He informed us that he had
7 purchased that CD set for his wife in a mosque, Masjid, in the
8 St. Louis area. He didn't give us a time. Or if he did, I
9 don't recall it. It was a present for Ernestine Johnson. And
10 that -- he actually suggested that I should probably listen to
11 a few of them to understand them better.

02:57

12 Q. What specifically did he say regarding whether he had been
13 to -- had communicated with Awlaki or gone to his websites?

02:57

14 A. As part of that line of questioning -- and, again, this
15 interview lasted about four hours, including breaks for
16 bathrooms and things. I wanted to get to the bottom of, "Okay.
17 So, you have the CDs for Anwar Awlaki. But have you gone to
18 his website or had any communications?" Because I already knew
19 he had.

02:57

20 So, we asked the question. And he acknowledged
21 that he knew that Anwar Awlaki was -- leaned that way and was a
22 bad site and he had been informed to not go to that site and he
23 had never gone to -- he had never gone to Anwar Awlaki's sites,
24 he had never communicated with Anwar Awlaki.

02:58

25 So, playing as if I just knew about the CD -- I

02:58 1 had brought some props with me dealing with Anwar Awlaki that I
2 wanted to show the defendant in order to show that Anwar Awlaki
3 was not someone that we thought was a good person.

4 Q. What were some of those props, and what transpired next?

02:58 5 A. I brought the 9-11 commission report, and I had it tabbed
6 out on the pages where Anwar Awlaki is mentioned as having
7 supported the 9-11 hijackers, the 9-11-2001 hijackers.

8 I told the defendant that I had done some
9 research, just briefly, after I received the referral, because
02:58 10 I didn't really know who Anwar Awlaki was -- that was my
11 story -- and that "I was concerned that you would be looking --
12 or listening to him." And then I also had printed off the
13 publicly available "44 Ways of Supporting Jihad."

14 Q. And, so, with these props did -- at some point did
02:59 15 Mr. Bujol see these props?

16 A. I specifically showed him the 9-11 commission report to --
17 it's a hard bound book, and I kind of waived it around on the
18 table. But at one point I dropped the "44 Ways," which was --
19 it was multiple pages, and I had it in a binder clip. I
02:59 20 dropped it, and it landed between the defendant's legs. So, he
21 stepped -- he pushed away from the table to look down to
22 actually kind of help me pick up my items. And as soon as he
23 saw the "44 Ways," he backed away, visibly shaken that I had
24 it.

02:59 25 Q. What do you mean he "backed away"?

02:59 1 A. He pushed himself, literally, away from the table.

2 Q. And did he -- after he was visibly shaken and pushed away
3 from the table, what sort of comments did he make to you after
4 he had seen these documents?

02:59 5 A. He rubbed his face a number of times, said, "I don't want
6 to be associated with that. That's not the way I am, and I've
7 never seen that." And it took -- in terms of the interview, it
8 took five, 10, 15 minutes to get him cooled back down to
9 continue the interview.

03:00 10 Q. And, again, Mr. Bujol had denied any communication with
11 Mr. Awlaki. Is that correct?

12 A. We came back to the topic, and he -- we had confronted him
13 that we thought he had been lying during the course of the
14 interview to that point, about -- just generic things. We
03:00 15 asked him to tell us what he had been lying about.

16 He admitted that he had received -- the defendant
17 had received an e-mail from someone at Prairie View A & M
18 University that said to go -- to avoid a number of sites. One
19 of the sites was an Anwar Awlaki site. So, he admitted that he
03:00 20 had gone to some of the other sites, out of curiosity, but he
21 had never gone to the Anwar Awlaki site or ever posted or
22 communicated with him.

23 Q. Now, the thumb drives that we had previously shown you, in
24 Exhibit 47, were thumb drives also recovered during the New
03:01 25 Jersey arrest?

03:01

1 A. Yes, sir.

2 Q. And did you try to obtain consent from Mr. Bujol to look at
3 the contents of the thumb drives?

03:01

4 A. Yes, sir. We have a similar form that -- to the one that's
5 up here that's for consent to search. I had the form in my
6 hand, and I asked the defendant for consent to search the two
7 thumb drives. I couched it in a way that, for me to be
8 thorough and, you know, look my boss in the eye that I thought
9 you were a good person and that this was all a

03:01

10 misunderstanding, that for me to be thorough, I need to look at
11 those just to clear everything up.

12 Q. And did Mr. Bujol give you consent?

03:02

13 A. He tried to give qualified -- what I would call "qualified"
14 consent. And by that I mean he said, "I want you to look at it
15 in my presence. I want to show you if something on there is
16 mine or someone else's." And then he went into a story
17 multiple times about a news story that he had seen on 60
18 Minutes or 20/20 or one of those, about someone that had some
19 relationship with a terrorist and that person got arrested just
20 because of casual contact.

03:02

21 He tried to do what I call the "qualified"
22 consent a couple of times, that he wanted to view it -- he
23 wanted us to view it in his presence. And I pulled the form
24 back and said, "That's not how our consent works. So, I
25 consider that you're not giving consent."

03:02

03:02

1 Q. So, ultimately no consent was given. Is that correct?

2 A. No. He attempted to again offer qualified consent after I
3 pulled the form away. And I said, "No, that's not how it
4 works." And that concluded that portion of the interview.

03:02

5 Q. Did you ask Mr. Bujol about e-mail addresses and what sort
6 of e-mail addresses that he had?

7 A. I avoided the issue of Abdul_Bari05@Yahoo.com. We went
8 into the interview kind of with a bunch of audible, if you kind
9 of catch that -- we had a lot of options on what we wanted to
10 do on the interview. One of the options was to give up all of
11 our cards. We didn't choose to use that. So, we had e-mails
12 in his car, that were from that account; but we didn't show him
13 that we saw those. So, the only e-mail that we talked to him
14 about was one that was on one of his resumes, which was not the
15 Abdul_Bari05 account.

03:03

16 Q. And what was that e-mail that was not the Abdul_Bari
17 account?

18 A. I believe it was Barry Bujol6@Hotmail.com.

19 Q. Did Mr. Bujol say that was the only e-mail address that he
20 had?

03:03

21 A. Yes.

22 Q. And you knew that to be false based on your results from
23 the Yahoo! search warrant. Is that correct?

24 A. Yes.

03:04

25 Q. Now, how long did Mr. Bujol stay in jail in New Jersey,

03:04

1 approximately?

2 A. I think it was about 10 weeks.

3 Q. And after he was released, do you know when he arrived back
4 in Houston, Texas?

03:04

5 A. June 25th, 2009.

6 Q. And how did he arrive back in Houston, Texas?

7 A. Greyhound Bus.

8 Q. And once he arrived by Greyhound Bus in Houston, Texas, do
9 you know how he got back to his residence in Prairie View

03:04

10 Texas?

11 A. Ernestine Johnson picked him up and brought him back to
12 Prairie View.

13 Q. Let me show you what's marked as Exhibit 5, and go to
14 Page 5 of that exhibit.

03:05

15 Let me show you what is marked as Government's
16 Exhibit Number 5. And, again, that's the subscriber
17 information for the Abdul_Bari05 account. Is that correct?

18 A. Yes, sir.

19 Q. If you go to the next page, there's the IP address
20 information. Is that right?

03:05

21 A. Yes, sir.

22 Q. And did you, pursuant to a subpoena, get this information
23 and determine things about when Mr. Bujol logged back into that
24 Abdul_Bari05 account after he was released from jail in New
25 Jersey?

03:06

03:06 1 A. Yes. We obtained a federal grand jury subpoena. This is
2 the results. In an effort to determine if the defendant, after
3 being confronted in that interview about contacts with Anwar
4 Awlaki, would again make use of the Abdul_Bari05 account.

03:06 5 And the day that he arrived back, after being
6 away for 10 weeks from his family, logged on three times at the
7 university.

8 Q. And you consider that significant because he had been
9 interviewed about Awlaki, been in jail for 10 weeks, and then
03:06 10 he logs back in through Prairie View to the same account. Is
11 that correct?

12 A. Correct. I mean, I knew that he had used that account to
13 contact Anwar Awlaki, which was a false statement of what he
14 had told me in New Jersey. So, I was concerned that he was
03:06 15 going in to delete it, maybe cancel the account, or maybe look
16 for a message that he may have missed from Anwar Awlaki in the
17 last 10 weeks.

18 Q. Now, once the defendant was back around June of 2009, back
19 in Prairie View, did you-all continue the investigation and
03:07 20 continue trying to maintain surveillance on the defendant?

21 A. Yes, sir.

22 Q. And can you tell us what transpired from June 25th, 2009,
23 up until November of 2009?

24 A. We continued our investigation. We continued to try to
03:07 25 identify anybody that may be associated with the defendant, to

03:07 1 identify any activities that he may start up or any activities
2 that may have changed, did he go back to school, do we see any
3 indication that maybe he was going to resume his life style
4 that he had pre July 2008 when he talked to Anwar Awlaki.

03:07 5 Q. And what did you observe in regards to whether he had
6 changed the behavior or not?

7 A. He spent less time at campus, but he still went to campus
8 and used the computer. He had -- he was essentially a loner at
9 that point, in terms of anyone outside of that apartment,
03:08 10 didn't seem to trust too many people, didn't interact with any
11 organizations on campus, didn't seem to travel into Houston and
12 go to any of the Muslim community organizations or anything
13 like that.

14 Q. And during this time period in November of 2009, did you
03:08 15 learn that the defendant had a warrant for a failure to appear
16 at a prior court proceeding?

17 A. When he left in March of that year, he was on bond from the
18 arrest at the airport, never came back. And so, as a result,
19 he had to appear for court in Waller County for that. And that
03:08 20 was -- would have been in the JP court, justice of the peace
21 court, Precinct 4, Waller County.

22 Q. Was there several times that he was supposed to appear in
23 court?

24 A. Yes. I don't recall the exact dates; but there were two
03:09 25 different occasions. He was provided court dates at that JP

03:09 1 court, justice of the peace court, that he did not appear for.

2 Q. Okay. And around this same time period, did you and other
3 agents of the FBI make the decision that you were going to
4 utilize a confidential human source?

03:09 5 A. Yes, sir. One of the techniques that we have is a trusted
6 confidential human source. And up to this point we had
7 exhausted a number of other investigative acts. We've already
8 talked about pen registers, subpoenas, search warrants,
9 interviews, the like.

03:09 10 And part of my job is not necessarily to arrest
11 people, is to prevent acts, but we -- arrest as one method --
12 and to figure out whether or not the defendant had changed his
13 mind about going overseas and what I believe to be fighting;
14 and the only way we can do that, if he's not going to meet
03:09 15 anybody outside, is to have somebody meet him that -- see if he
16 will confide in and see if he still wants to do the things that
17 I believe he wanted to do when he left in February.

18 Q. And as part of using this confidential source, did you
19 formulate a plan on how the source and the defendant would
03:10 20 meet?

21 A. We did. We had originally planned for the CHS to be in the
22 waiting room of the JP court on the same day, around the same
23 time that the defendant was supposed to be there.

24 Q. And did that plan work or not work?

03:10 25 A. Because the defendant didn't appear, it did not work.

03:10 1 Q. And because the defendant didn't appear and the plan didn't
2 work, ultimately a warrant was obtained. Is that correct?

3 A. The JP in that court issued a failure to appear warrant
4 because he had failed to appear twice.

03:10 5 Q. If we look at Exhibit 27, that's -- that is a listing of
6 that warrant. Is that correct? And booking sheet for that
7 warrant?

8 A. Yes, sir.

9 Q. Because this plan involving the defendant voluntarily
03:11 10 appearing in court and meeting the source didn't work, what was
11 the next operational plan you had to introduce the source to
12 the defendant?

13 A. We had a legal warrant that had been issued in a Court, and
14 we decided to -- again, to contact the local authorities -- in
03:11 15 this case it was Waller County -- and ask their assistance in
16 arresting him, the defendant, at a time and place of our
17 choosing, in order to control that the defendant would be in
18 the Waller County jail, booked at a certain place at a certain
19 time. And our plan was to place the confidential human source,
03:11 20 the CHS, in the same booking area at the same time so that they
21 would bump into each other.

22 Q. And when and where was the defendant arrested on this
23 warrant that's in Exhibit 27?

24 A. It was November 13th, 2009. He was arrested in the parking
03:12 25 lot of his apartment complex, 20598 Pine Island Road,

03:12 1 Hempstead, Texas?

2 Q. And where was he transported to after he was arrested?

3 A. The Waller County jail.

4 Q. And as part of your operational plan, what preparation did
03:12 5 you take to prepare for the defendant being arrested and
6 ultimately meeting the confidential source?

7 A. Our plan -- the things that we do in order for an
8 operation, we obviously emplace security measures for the
9 confidential human source and for the agents involved in the
03:12 10 investigation. So, we made arrangements with the jail that the
11 confidential human source would be treated as if he were a
12 prisoner, dressed the same, have to go through the same
13 procedures as any other prisoner.

14 We put together procedures so that law
03:13 15 enforcement outside of Waller County could observe the
16 interaction at the booking area, with the defendant and the
17 confidential human source. And we determined that, since this
18 was their very first meeting, we wanted to try to set the
19 conditions that they would have at least a few minutes to meet
03:13 20 so that they could try to set up a second meeting.

21 Q. And after the defendant was arrested on November 13th, he
22 was transported to Waller County jail. And can you tell us
23 what happened in relation to the defendant and the source
24 meeting?

03:13 25 A. The defendant was brought into the booking area in

03:13 1 accordance with their -- through the sally port or whatever,
2 the way they normally do that. And upon being brought into the
3 booking area, since somebody else was already being booked,
4 being fingerprinted and photographed -- that person was the
03:14 5 CHS -- the defendant was placed into a temporary holding cell
6 in that area so that he could observe the CHS being booked.

7 The CHS was then suited out, I call it, and put
8 in an orange county jail jumpsuit and -- and then the CHS
9 was -- after he was finished being booked, was placed in the
03:14 10 same temporary booking cell that the defendant was in.

11 Q. And approximately how long were the defendant and the
12 confidential source in the same booking cell?

13 A. In the cell, maybe less than 30 minutes but in the same
14 general area, in sight of each other, about 45.

03:14 15 Q. And were you or other agents able to observe any
16 interaction between the source and the defendant?

17 A. Yes.

18 Q. And what significance was observed during this interaction,
19 if any?

03:14 20 A. They spoke; they prayed together; they interacted. And
21 then, at the conclusion, the source, the CHS, said some things
22 in order to be moved back into the holding area so that that
23 ended the meeting. He had been previously directed when he was
24 ready to end it to do it that way.

03:15 25 Q. Now, prior to this meeting did you place an audio recording

03:15 1 device on the defendant [sic]?

2 A. Yes, sir.

3 Q. And where was it placed?

4 A. In his waist band.

03:15 5 Q. Now, as with this recording and all recordings, can you
6 tell me the procedure that you used to assure the accuracy and
7 integrity of the recordings that you use, whether video or
8 audio?

9 A. We check out devices from our inventory. And the inventory
03:15 10 is in Houston, and I'm in Bryan. So, you either go get them or
11 someone else goes and gets them.

12 And what we do is we make sure they're in working
13 order; make sure they're charged, meaning they have a power
14 supply that's working, the battery is fully charged; make sure
03:15 15 there's no resident digital media from a previous recording.
16 If it's a magnetic tape, like an eight millimeter tape or a
17 cassette tape, we, obviously, take a new one from the wrapper.

18 THE COURT: Let me ask you this. Is this a
19 self-contained recording device or is it a transmitter through
03:16 20 a receiving device?

21 THE WITNESS: In this case, it was a self-contained
22 digital recording device.

23 THE COURT: Okay. So, it wasn't transmitted somewhere
24 else and recorded, like, a spool going around, for want of a
03:16 25 different term?

03:16 1 THE WITNESS: Yes, sir.

2 THE COURT: Do you still use that technology? Or is
3 it all on a disk?

4 THE WITNESS: (Indicating)

03:16 5 THE COURT: On a disk. Okay.

6 THE WITNESS: After we've done those tests, then the
7 way we do it is, prior to the emplacement, wherever we're going
8 to put it, we test it one more time, make sure the light comes
9 on and we record what's called a preamble. And that's -- the
03:16 10 person who is installing it says their name, the place, the
11 date, the time, a brief description of what you anticipate
12 being recorded, the people you think are going to be recorded.
13 And then it's emplaced.

14 BY MR. MCINTYRE:

03:17 15 Q. Once the device has been placed and the recording has been
16 made, what do you do post-recording to ensure the accuracy and
17 the integrity of the recordings?

18 A. As we're recovering it from wherever it is, I record a
19 post-amble, which is essentially the same information in
03:17 20 reverse; it's the person recovering the device, the date, time,
21 the place. And then it's turned off; and it's put into chain
22 of custody, either envelope or carried to where there's an
23 envelope.

24 It's transported to Houston, the FBI office,
03:17 25 placed into evidence. And then, if it's a digital device,

03:17 1 it's -- the true data is taken off the digital device and
2 placed into evidence and then that -- the physical device is
3 placed back into inventory.

4 If it's a magnetic tape, a cassette tape or an
03:17 5 eight millimeter video, the tape is pulled out and put into
6 chain of custody and it's entered into evidence. And working
7 copies are made of either the digital or the magnetic, so that
8 we can listen to them at a later date.

9 Q. And that process was followed for all the audio and video
03:18 10 recordings done in this case. Is that correct?

11 A. Yes, sir.

12 Q. Now, after the meeting between the source and the
13 defendant, did you make arrangements for the source to be added
14 to the visitor list for the defendant?

03:18 15 A. Yes. We contacted a jailer in the jail, that would be
16 working in the area that the defendant was going to be housed,
17 and asked him to go back to the defendant and state that the
18 CHS had requested to be put on the defendant's visitation log
19 and see if the defendant was willing to add him to the list.

03:18 20 The defendant said "yes." And then procedures were made in
21 order to put the CHS's name on the visitation log.

22 Q. Now, following this November 13th meeting, was there
23 another meeting between the confidential human source and the
24 defendant?

03:19 25 A. Yes. We decided to have another meeting within the jail in

03:19 1 order to have the CHS visit the defendant as he had suggested
2 he might.

3 Q. And was this meet recorded or not recorded?

4 A. That meeting was not recorded.

03:19 5 Q. Why was it not recorded?

6 A. We were familiar with the way the jail was set up. And the
7 way visitation works at the jail at that time is it's
8 between -- the person in jail and the person out of jail, the
9 visitor, see each other through glass and they use the handset
03:19 10 to speak to one another. So, we didn't think, technically, it
11 would work very well.

12 And also we did not want to inform too many
13 people in the jail of what was going on in case the defendant
14 saw something different than what he's used to.

03:19 15 Q. And approximately how long did the defendant and the source
16 talk over the handset on this occasion on November 18th of
17 2009?

18 A. I believe it was roughly 20 minutes.

19 Q. And after the meeting, did the defendant -- after the
03:20 20 meeting with the defendant, did the confidential source go to
21 the residence of Mr. Bujol?

22 A. Yes. We conducted surveillance of -- the confidential
23 human source drove to the defendant's apartment. This was late
24 at night now. This is close to 10:00 o'clock at night. And
03:20 25 the CHS approached the door, knocked. And after awhile,

03:20

1 Ernestine Johnson came out and met the CHS.

2 Q. And what was the purpose of the source going out to meet
3 Ernestine Johnson?

4 A. It's traditional in the culture and religion that if
5 someone is in jail or the male of the family is in trouble that
6 the community, the Muslim community, assist the family. So, we
7 sent the CHS over to give Ernestine \$50.

03:20

8 Q. Now, after this November 18th meeting at the jail, there
9 was a subsequent meeting on December 2nd of 2009. Is that
10 correct?

03:21

11 A. Yes.

12 Q. And where did this meeting between the source and the
13 defendant occur?

14 A. It occurred at the Waller County jail, in the visitation
15 area again.

03:21

16 Q. And was this recorded or not recorded?

17 A. It was recorded.

18 Q. And at the time period that the source arrived at the jail,
19 did he have contact with any person other than the defendant?

03:21

20 A. In the waiting area, where you're waiting and you sign in
21 to go visit, he -- the CHS ran into Ernestine Johnson at this
22 point -- the defendant had two young children at that point.
23 They were all there in the lobby.

24 Q. And did the defendant eventually talk to the confidential
25 source, who had come to the jail?

03:22

03:22

1 A. Yes.

2 Q. And approximately how long did they talk?

3 A. I believe it was about 20 minutes, as well.

03:22

4 Q. And you said this was recorded. Did you later determine
5 whether it was a good quality or poor quality?6 A. It was a poor quality. And it, really, was only of the
7 CHS's conversation because it was a handset and the recording
8 device we used was not in the phone. So, it only picked up
9 what the CHS said. It didn't pick up what the defendant said.

03:22

10 Q. Now, after this December 2nd, 2009, meeting, did you or
11 other investigators learn that Mr. Bujol was scheduled to get
12 out some time around December 5th of 2009?

13 A. Yes, sir.

03:22

14 Q. And did you, organizationally, form a plan to have the
15 confidential source come into contact with the defendant at or
16 about the time he was being released from jail?17 A. Yes. We decided that -- we didn't know what time he would
18 be released on bail because he was -- he was not paying the
19 fine. He was what they call "sitting it out," which means that
20 every day he sat in the jail it took a hundred dollars off of
21 his fine. So, there's no way of knowing, without too many
22 people in the jail or the county court system knowing that we
23 were interested, what time he was going to be released.

03:23

24 So, instead of him being released at an odd hour
03:23 25 on the 5th, we decided to set it up where the CHS went to the

03:23 1 jail on the 4th, with physical surveillance and everything, and
2 make it appear as if the CHS was bailing out the defendant.

3 Q. And, so, what transpired between the confidential source
4 and the defendant during the time period he was being released
03:24 5 on December 4th, 2009?

6 A. After the defendant went through the jail proceedings,
7 whatever the procedures are to be released, they met in the
8 lobby, the CHS and the defendant. We observed them walk to the
9 CHS's car, which was parked in the parking lot. And the CHS
03:24 10 had been directed to offer a ride home to the defendant. And
11 the defendant took the ride offer up. And we observed the two
12 of them driving together in the CHS's car from the jail to the
13 parking lot of the defendant's apartment complex.

14 Q. And approximately how long was the source at the
03:24 15 defendant's apartment on this occasion?

16 A. They sat in the parking lot for no more than 15 minutes.
17 And then the defendant went inside of his apartment. And as
18 our normal protocol, we -- before a meeting, we tell the CHS a
19 place to meet us at the conclusion of the meeting.

03:24 20 The CHS met us and informed us that the defendant
21 wanted the CHS to come back in about an hour and a half so they
22 could talk further.

23 Q. And did the confidential source come back in approximately
24 an hour and a half and meet with the defendant?

03:25 25 A. Yes, sir.

03:25 1 Q. And what transpired at that point between the confidential
2 source and the defendant?

3 A. The defendant came out to the car and got into the CHS's
4 car. They drove to the McDonald's in Hempstead, through the
03:25 5 drive-thru line; and they both got a hot beverage. I'm not
6 sure what exactly it was.

7 Then they drove to Prairie View A&M University
8 and then eventually back to the defendant's apartment parking
9 lot, where they sat for five, ten minutes. And then the
03:25 10 defendant went back into his residence; the CHS went back to a
11 predesignated position.

12 Q. And were there audio and video recordings in the vehicle,
13 in the confidential source's vehicle, for these meetings?

14 A. Yes, sir.

03:26 15 Q. Now, during the December 4th, 2009, meeting, did the
16 confidential source give an e-mail address to the defendant?

17 A. Yes. Prior to any meeting, we give very clear instructions
18 to the CHS. Safety, you can do this, you can't do that, and
19 then some very specific what I call "tactical," meaning just
03:26 20 very specific things that deal with the case, things that I
21 would like you to do.

22 In this particular case, we had directed the CHS
23 to create an e-mail account, a Yahoo! account. We chose Yahoo!
24 because our entire case at this point -- when we decided to
03:26 25 institute the CHS, we wanted to mirror the year case we had

03:26 1 before that.

2 THE COURT: The what case?

3 THE WITNESS: Your Honor, the way we looked at this
4 case involving the defendant is everything that happened up to
03:26 5 and through New Jersey as one particular case, because those
6 are all things that he did of his own accord, without us ever
7 being involved. And then the way I look at it is, starting in
8 November, we had almost a second case.

9 And the way we did that is we tried to mirror as
03:27 10 much as possible in the first case. He used Yahoo!; so, we
11 used Yahoo!. He wanted to travel; so, we made it sound like
12 our guy had traveled. And, then, we continued to do that.

13 We used the "42 Ways" as kind of a blueprint. We
14 would say some of the same things that were said there or we
03:27 15 would say some of the things -- same things that he said in his
16 own e-mails to people.

17 So in this case, we created a fake Yahoo! account
18 with instructions that if the opportunity arises and the
19 defendant wanted it to provide that e-mail account and not
03:27 20 another e-mail account.

21 THE COURT: All right.

22 BY MR. McINTYRE:

23 Q. Now, can you tell us the procedure for how you -- meaning
24 the case agent and the confidential source -- handled e-mails
03:27 25 that were sent to or received from the defendant? What was the

03:28 1 procedure?

2 A. We would direct the CHS to create an e-mail account. The
3 CHS would decide what name he would create. But once the
4 e-mail account was created, he was directed not to do anything
03:28 5 with that e-mail account that was not related to this case. We
6 were given access to the account, meaning the handlers of the
7 CHS, the case agents; and the CHS was given access to the
8 account.

9 The way it would work and the way it was directed
03:28 10 and the way we did it throughout this operation was, if either
11 one of us -- meaning the handlers, case agents, or the CHS --
12 saw that an e-mail came in, other than spam or anything -- that
13 they would contact the other one and then we -- we would decide
14 what to do next.

03:28 15 Q. And did the source need approval from the case agents
16 before he could e-mail the defendant?

17 A. Later in -- as the operation went, there were opportunities
18 where the CHS had to communicate with the defendant or the
19 defendant was communicating with the CHS. So, the way that
03:29 20 worked was, once there was an e-mail sent to the CHS, both
21 parties -- meaning the CHS and the case agents -- will look at
22 it. A decision will be made whether or not we would respond,
23 how we would respond, and how soon we would respond.

24 Typically what would happen is one of the other
03:29 25 persons -- the CHS or case agents -- would draft an e-mail, the

03:29 1 other one would look at it and then adjust it so it had some
2 misspellings or maybe had a few Arabic characters in it or
3 whatever, so that it looked like it came from the CHS. And
4 then final approval was always the case agents'. CHS was not
03:29 5 allowed to send any e-mails without our approval.

6 Q. Now, ultimately, there was a meeting between the source and
7 the defendant on December 23rd of 2009. What sort of
8 preparations did you and the other agents do in regards to this
9 anticipated meeting on December 23rd of 2009?

03:30 10 A. There were a few e-mails exchanged prior to this meeting
11 between the defendant and the CHS that kind of suggested they
12 were going to meet that day and -- and visit. And the
13 defendant agreed to that.

14 The CHS, we set up physical surveillance both for
03:30 15 the safety of the CHS but also to gather intelligence and
16 evidence. There were a number of digital and audio recording
17 devices used. And, then, we would always place props within
18 the vehicle to bolster what we thought the -- the character the
19 CHS was portraying: Someone who travels, someone who traveled
03:30 20 frequently; so, we would place hotel pens from foreign hotels,
21 foreign newspapers, prayer beads, foreign currency, things of
22 that nature, throughout the car. Because the defendant was
23 very keen on looking around inside the car; so, we wanted him
24 to think that the CHS traveled frequently.

03:31 25 On that particular day, we gave the CHS an

03:31 1 envelope. It didn't contain anything. But with instructions
2 to go to a particular place in Cypress, Texas, hand that to an
3 FBI employee who looked Middle Eastern -- or was Middle Eastern
4 but not talk about it, see if the defendant brought it up.

03:31 5 Because that's just not normal behavior at 9:30 at night. And
6 then drive to another location and they could talk or do
7 whatever they wanted to do.

8 We gave the CHS latitude on whether they went and
9 got something to drink or not based off what the defendant
03:31 10 wanted to do. We would always give the CHS particular places
11 we wanted him to avoid, places we wanted him to go in case we
12 lost him or he was in danger.

13 And we gave the CHS instructions every meeting
14 that he was not to assume the role as a spiritual leader and
03:32 15 was never to assume the role with the defendant that he was an
16 employer looking to hire the defendant.

17 Q. And on this date, did surveillance observe what you
18 previously talked about in the instance of the confidential
19 source passing some sort of note or envelope to another Middle
03:32 20 Eastern individual?

21 A. Yes.

22 Q. What was the defendant's reaction when he saw this?

23 A. He seemed pleased. He never brought it up. Didn't get out
24 of the car and walk away, stayed in the car. And they drove to
03:32 25 another location and began to speak for probably close to an

03:32 1 hour after that.

2 Q. What were the specific circumstances of where and how the
3 source handed this envelope to this undercover Middle Eastern
4 person?

03:33 5 A. As I mentioned, we wanted the defendant to see in the CHS
6 what the defendant had been looking for all along, somebody who
7 thought like him, traveled, could, you know -- so, in order to
8 do that, hints were dropped that the CHS had connections and
9 just did stuff and he would never say exactly what it was.

03:33 10 So, we made arrangements at a particular time at
11 a CVS Pharmacy, just outside of a CVS Pharmacy, that the FBI
12 employee would be there, that the defendant would be in the car
13 with the CHS and the CHS would pass the envelope, not talk
14 about it after, not explain it and, if asked, to just tell the
03:33 15 guy to not ask.

16 Q. Okay. Now, after this December 23rd meeting, there was a
17 subsequent meeting on January 20th of 2010. Can you tell us
18 what preparations that you and other agents took in order to
19 get ready for this meeting between the source and the defendant
03:34 20 on that date?

21 A. After every meeting, we would talk to the CHS and we would
22 review the working copies of what was said in the meetings and
23 kind of come up with a plan. In this particular case they --

24 THE COURT: What do you mean "working copies"? What
03:34 25 do you mean by that?

03:34 1 THE WITNESS: As I mentioned earlier, your Honor,
2 that -- we wouldn't use the actual original copy of a
3 transcript -- I mean, of an audio recording. We would use a
4 duplicate. That way, we never touched the original; and it
03:34 5 stayed in evidence.

6 THE COURT: Right.

7 THE WITNESS: So, a "working copy" was one that the
8 case agents could play and play back and forth and not have to
9 worry about chain of custody issues.

03:34 10 THE COURT: Go on.

11 By the way, we'll take a break in about 10
12 minutes. We usually take a break about 3:45. So, we're right
13 on schedule.

14 Go on.

03:34 15 THE WITNESS: In this particular case, there had been
16 a discussion about the two of them dining. So, the CHS was
17 provided -- or directed to go purchase some chicken. And the
18 idea behind the meeting was they were going to go to the
19 defendant's house and have a meal.

03:35 20 BY MR. MCINTYRE:

21 Q. Okay.

22 A. And, then, we set up the normal protocols with surveillance
23 and recording devices and things like that.

24 Q. Okay. And can you tell us what was observed by

03:35 25 surveillance agents on January 20th, 2010, in the instance of

03:35 1 where the confidential source and the defendant met, where they
2 traveled, and where they ultimately ended up?

3 THE COURT: All right. Now, counsel, let me just ask
4 you. You're not going through every single meeting, are you?
03:35 5 You're just going through what you think is relevant and has
6 some importance in this case. Is that correct?

7 MR. McINTYRE: Your Honor, I have been going through
8 every single meeting; but I can --

9 THE COURT: It's strictly up to you. In other words,
03:35 10 just hit the main points.

11 MR. McINTYRE: Yes, your Honor.

12 THE COURT: I'm not moving you along. I'm not forcing
13 you to speed up. But I'm saying give us as much detail as you
14 think is necessary under the facts of the case.

03:36 15 MR. McINTYRE: Yes, your Honor.

16 THE COURT: Go on.

17 You certainly have to link up each transcript
18 that you put in. Don't get me wrong about that.

19 Go on.

03:36 20 MR. McINTYRE: Yes, your Honor. Okay.

21 BY MR. McINTYRE:

22 Q. On January 20th of 2010, was there an instance during this
23 meeting where the defendant and the confidential source
24 traveled to a Best Buy?

03:36 25 A. Yes.

03:36 1 Q. What transpired during the time period they were at the
2 Best Buy?

3 A. They both went into the Best Buy. The defendant had been
4 told to go to an area where they have GPS units, global
03:36 5 positioning units.

6 THE COURT: Wait a second. Say the wording again.

7 THE WITNESS: Global positioning system.

8 THE COURT: Yeah, I know. But what -- who suggested
9 they go to the GPS section?

03:36 10 THE WITNESS: We suggested it to the CHS, that that's
11 where he go when he goes into the Best Buy.

12 THE COURT: Just to walk over there?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right.

03:36 15 THE WITNESS: They went to that area and the CHS
16 looked at different GPS receivers in the store and actually
17 spoke to someone that worked there about them and then they
18 exited the Best Buy.

19 THE COURT: They just looked and exited. Is that
03:37 20 correct?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay.

23 BY MR. MCINTYRE:

24 Q. And then where did they travel to; and, ultimately, when
03:37 25 did the meeting end on that date?

03:37 1 A. Prior to getting into the car, they both went to the
2 Starbuck's which is in the same parking lot, got a drink, got
3 into the CHS's car, drove back to the defendant's apartment,
4 went inside for 30 or 35 minutes, had a meal.

03:37 5 We observed the CHS return. In this particular
6 meeting and many others after it, there was a transmitter on
7 the CHS that allowed it to play a certain distance on a radio
8 channel. So, we were listening through that transmitter, in
9 addition to the recording devices.

03:37 10 They ate the meal. We recovered the source, and
11 went to the next meeting.

12 Q. Now, the next meeting was January 25th of 2010. And that
13 was going to take place in a hotel. Is that correct?

14 A. Yes.

03:38 15 Q. And was there e-mail correspondence between the source and
16 the defendant prior to then, that referenced the meeting?

17 A. Yes. There were e-mails setting up the time and the place.
18 And in this particular case the defendant was requested to go
19 to the Hampton Inn at 1960 and 290 and park in a particular
03:38 20 area of the parking lot at a particular time and come to a
21 certain room where the CHS would be waiting, as if he had just
22 had a meeting with some unknown brothers prior to.

23 Q. And what sort of staging did you do in the hotel room to
24 make it appear that he had just met with some brothers -- or
03:38 25 the brothers?

03:38

1 A. In addition, to putting the cameras in the room, we moved
2 the furniture to make it look like there had been a meeting
3 taking place on the table. So, we had multiple chairs around
4 the table. We had a traditional Arab or Arabic or Middle
5 Eastern tea set. There were pistachios; there were dates;
6 there was a prayer rug visible in the room; there were some
7 religious items visible in the room.

03:39

8 Q. And can you tell us, you know, briefly, how long did they
9 meet, where did they meet, and ultimately what happened?

03:39

10 A. This meeting, we -- again, we gave the source very clear
11 directions, meeting -- meet in the hotel room but, if at any
12 time you don't feel comfortable in there or the defendant
13 doesn't feel comfortable in there, go to your car. The car is
14 outside. It's already prewired with audio and video. And
15 then, if you get in the car, go to a particular location and
16 stay in that area and then come back.

03:39

17 They stayed in the hotel room about 30, 35
18 minutes. The source decided at that time to have the defendant
19 go down to the car, which he did. A minute later or so the CHS
20 joined him. They both got into the CHS's car and drove down
21 1960 for awhile, pulled into a Wal-Mart parking lot; then drove
22 back; sat in the hotel parking lot at least 25 minutes and
23 talked. And at the end of the meeting, surveillance observed
24 the defendant exit, get into his vehicle, and return back
25 towards Hempstead.

03:40

03:40 1 Q. Let me take you to February 3rd of 2010, and I'm not going
2 to ask you what happened all during that meeting. But was
3 there a proposal for a note that was given on that date in
4 regards to what you would call a "dead-drop" or a covert --
03:40 5 covert communications?

6 A. Yes. We had already started in this investigation with the
7 note passing and some of the props in the car to make it seem
8 as if the CHS was involved in some unknown activity that wasn't
9 to be made public.

03:41 10 So, in an effort to fulfill that and also the
11 fact that one of the "42 Ways" that I know the defendant had
12 received is that jihad -- the work of jihad is clandestine in
13 nature and needs to be kept secret, it's a need-to-know basis,
14 and all these type of things, we decided to give a note to the
03:41 15 CHS to provide to the defendant, that a directed the defendant
16 to on the -- at the next meeting, which was February -- later
17 in February, that he was going to go to a particular place, be
18 there at a particular time, and -- go to Navasota, Texas, park
19 at a gas station at the air-and-water station, walk across the
03:41 20 parking lot; and behind the ICE machine that the -- where you
21 buy ice, there was supposed to be a note with more
22 instructions.

23 Q. Okay. And what did the agents do to prepare for these what
24 we'll call "dead-drop" operations?

03:42 25 A. We come up with instructions. We write them out. We have

0 3 : 4 2 1 the CHS rewrite them in his own hand. We get whatever the note
2 is ready. We emplace it. We photocopy it or photograph it
3 before we put it there. And then one of the agents is
4 responsible to observe it the whole time and then, at the
0 3 : 4 2 5 conclusion of the op, go back and make sure that whatever it
6 was is no longer there.

7 Q. And where did you place things for this operation?

8 A. There was a note taped behind the ice machine at the Shell
9 station in Navasota. And inside the Ziploc bag was a note and
0 3 : 4 2 10 a 20-dollar bill.

11 Q. And was there any other information or notes or other items
12 that were placed during this dead-drop?

13 A. That dead-drop directed the defendant to go to College
14 Station, about 20 miles away, conduct some certain activities
0 3 : 4 3 15 in the mall, go back to his vehicle, which he did. And on his
16 vehicle there was another note that directed him back to
17 Hempstead, at the McDonald's that the defendant and the CHS had
18 previously met at when he got out of jail.

19 Q. And in this last meeting spot, was the defendant supposed
0 3 : 4 3 20 to bring the source some items that he had received to show
21 that he had completed the task that had been ascribed to him?

22 A. Right. When he got to Navasota, he was directed to go into
23 a particular entrance of the mall, exit at a different
24 entrance, not talk to anybody, and obtain proof that he had
0 3 : 4 3 25 been in the mall. And when we concluded the meeting, we

03:43 1 recovered three items that the defendant provided the CHS as
2 proof that he had been in the mall.

3 Q. And did surveillance observe him doing the things that he
4 was directed to do at the mall?

03:43 5 A. Yes, sir.

6 Q. Now, on February 21st there was another meeting between the
7 defendant and the source. And preceding that, there was an
8 e-mail --

9 THE COURT: All right. Hold it now, counsel. It's
03:44 10 exactly 3:45. I want to stick to the general schedule. It's
11 always worked. We're going to take a break. The first break
12 is generally either 15 or 20 minutes. We'll take 20 minutes,
13 allow everybody to have a break. Then we'll go on, and we'll
14 adjourn between 6:00 and 6:05. But we will take a short
03:44 15 10-minute break somewhere in between there, just a short break,
16 so we don't go over two hours without a break.

17 So, at this time, it's right at 3:45. Please be
18 back, ready to resume, in 20 minutes. We'll see you at that
19 time.

03:44 20 *(Recess was taken)*

21 THE COURT: Thank you. Be seated.

22 All right. Let's continue, please. All right.

23 MR. McINTYRE: Yes, your Honor.

24 BY MR. McINTYRE:

04:09 25 Q. Agent Cannon, let me show you what is marked and admitted

04:09 1 as Exhibit 151 and have you tell me what Exhibit 151 is.

2 A. It's an e-mail from an e-mail account that the defendant
3 had created and was using at the time, to the e-mail that the
4 CHS was using at the time, dated February 19th. And it's --
04:09 5 the defendant replies that he will be at the place that the CHS
6 suggested he be at, which is at the bottom of the e-mail.

7 Q. And it tells him to go to a particular store and look under
8 some bags?

9 A. Right. The meeting previous to this, there were -- there
04:10 10 was what we call a "dead-drop." It's kind of an espionage
11 trade-craft kind of thing, which we're following on the "42
12 Ways." And prior to this meeting, the defendant had provided
13 to this e-mail account some US cases, criminal complaints, and
14 indictments via e-mail, some PDF documents.

04:10 15 THE COURT: What was that for? What was the purpose
16 of that?

17 THE WITNESS: The defendant was providing the CHS
18 these documents --

19 THE COURT: He was providing your person?

04:10 20 THE WITNESS: Yes, sir.

21 THE COURT: All right. These documents.

22 THE WITNESS: Yes.

23 THE COURT: Okay. That was, it flowed from the
24 defendant to the government's agent?

04:10 25 THE WITNESS: Yes, sir.

0 4 : 1 0 1 And upon reading those, they were the criminal
2 complaints of recent FBI counterterrorism stings throughout the
3 US. One in particular was in St. Louis. Another one was in
4 Dallas. We read those because the defendant read them, and was
0 4 : 1 0 5 looking for someone -- what he called a "manafa," which is a
6 hypocrite, somebody working for the government, which, again,
7 was one of the "42 Ways," to look for those people. He was
8 looking at those complaints as ways that the government would
9 try to arrest people. So --

0 4 : 1 1 10 BY MR. McINTYRE:

11 Q. And, so, did you feel like, since he was familiar with
12 these complaints and the tactics the FBI used in these previous
13 cases, that you needed to do something different than what was
14 outlined in the criminal complaints that the defendant had sent
0 4 : 1 1 15 to the confidential source?

16 A. Right. And we also knew that what the defendant had read
17 about jihad work being clandestine and secret by nature, we had
18 instructed the CHS to inform the defendant that that's the way
19 the brothers that the CHS was part of, that's the way they
0 4 : 1 1 20 communicated, you had to go to dead-drops, which are indirect
21 means of communication, which means there's no two people in
22 the same place at any given time. So, in this one, we created
23 this e-mail, had the CHS in the same method I already described
24 send it. And it directed the defendant, at a certain place --
0 4 : 1 2 25 at a certain time on that day to go to a Randall's Grocery

0 4 : 1 2 1 Store, go to a particular aisle that had a brand of chips
2 called "Flamin Hot Funyuns" and reach in that area to look for
3 instructions for the rest of the evening.

4 Q. And can you tell me ultimately what transpired on the
0 4 : 1 2 5 evening of February 21st of 2010?

6 A. Surveillance observed the defendant driving in a white Geo
7 Prizm registered to Ernestine Johnson, drove to this area, went
8 into the store and, I mean, got almost waist deep into the
9 aisle looking for a note which we did not place. We ended up
0 4 : 1 2 10 having to place it on the defendant's windshield so that -- and
11 then, eventually, the defendant retrieved the note, followed
12 the remainder of the directions on the note, which were to
13 cross under 290, there's an Academy parking lot there, there's
14 a Chinese food restaurant in that lot. He was instructed to go
0 4 : 1 3 15 to that lot and approach the CHS's car only when the CHS's
16 headlights were on. And we observed him do that. He got into
17 the CHS's car, sat for 45 or 50 minutes. And, then, at the
18 conclusion of that meeting, the defendant was observed leaving
19 in his own car.

0 4 : 1 3 20 Q. Was a note provided from the confidential source to the
21 defendant on the February 21st meeting with additional
22 instructions?

23 A. Yes. We drew up a note, had the CHS rewrite it. And the
24 note gave the CHS instructions for the next night -- so, this
0 4 : 1 3 25 was February 21st -- for instructions for on February 22nd to

04:13 1 create a new e-mail address, a Yahoo! account. It provided the
2 defendant eight quarters, told him to bring them, and directed
3 the defendant to a particular HEB in Cypress, Texas; park at a
4 particular location, walk a certain way, go to a certain
04:14 5 newspaper stand. And the defendant was shown a magnetic key
6 box that's a small black box that's got a sliding door that you
7 usually place under your key and hide a spare key.

8 THE COURT: Place under your key or under your car?

9 THE WITNESS: Under you car, your Honor. And it
04:14 10 usually contains a key.

11 He was told to look for that at a particular
12 newspaper stand.

13 BY MR. MCINTYRE:

14 Q. And what sort of preparations did you and other agents take
04:14 15 for this February 27, 2010, what you call "dead-drop" or covert
16 communication exercise?

17 A. On February 22nd, prior to the meeting, the first place
18 that the defendant was supposed to go, we set up surveillance
19 at multiple locations and we -- we created a number of notes
04:14 20 with props, that would lead, if the defendant chose to do it
21 and follow the instructions, would lead him throughout the area
22 of Cypress and ultimately end up in one location with certain
23 items --

24 THE COURT: Now, what's the purpose of that, of that
04:15 25 operation? I mean, you know, that complexity.

0 4 : 1 5 1 THE WITNESS: Well, your Honor, at this point in time
2 we wanted to determine if the defendant was willing to go to
3 lengths in order to remain associated with the CHS who he
4 believed to have like minded radical ideologies. Also, we were
0 4 : 1 5 5 mirroring the things we knew about that the defendant had
6 looked at and received prior to our insertion of a CHS. For
7 example, the document from Anwar Awlaki specifically mentions
8 that the work of jihad by the mujahideen is clandestine and
9 secret in nature and we need -- and that the people that
0 4 : 1 5 10 practice it need to be careful with what they say and be
11 careful how they communicate.

12 The defendant, in his open words, previously said
13 he didn't trust phones. So, we were trying to use these
14 dead-drops to mirror what we thought that the defendant was
0 4 : 1 6 15 already expecting to see if he was talking to one of a jihadi
16 nature, to see his -- to gauge his willingness to go through
17 what's -- what's considered by many not normal behavior,
18 running around in the middle of the night, sneaking under many
19 different items --

0 4 : 1 6 20 THE COURT: All right. All right. Go on.

21 BY MR. MCINTYRE:

22 Q. Okay. And, so, to summarize, on February 22nd, there was
23 surveillance; and it observed him go to these various locations
24 and retrieve these various items. Is that correct?

0 4 : 1 6 25 A. Yes, sir.

04:16

1 Q. And let me show you some photographs, starting at
2 Exhibit 146, and have you explain to the judge what these
3 photographs are that were taken on the night of February 22nd.

04:16

4 A. This is the defendant reaching into the previously
5 described newspaper stand. That's at the HEB, entrance of the
6 HEB, which is where we told him to be.

7 Q. And what was he reaching inside the stand for?

8 A. He was told to look for one of those magnetic key boxes he
9 had seen the night before.

04:17

10 Q. And let me show you what is admitted as Exhibit 147.

11 A. If you look closely, you can see, instead of reaching in
12 the bottom part of the newspaper stand where newspapers should
13 be, he's reaching to the upper, the roof section, where the key
14 box would be.

04:17

15 Q. And Exhibit 148, is also a surveillance photo. Is that
16 correct?

17 A. It's a close-up.

18 Q. And 149?

19 A. That's a surveillance photo of him walking away with one of
20 the newspapers.

04:17

21 Q. And Exhibit 150?

22 A. You can see the newspapers in front. He's looking at
23 something behind it, and I believe that to be the key box.

24 Q. And if we go to Exhibit 144, can you explain to the Court
25 what Exhibit 144 is?

04:17

04:18 1 A. That's the note that was in the key box. Prior to us
2 putting it in there, we photographed it before we did that.
3 And it basically instructs him to go to another location in
4 Cypress and retrieve an item.

04:18 5 Q. Let me show you what is marked Exhibit 142 from that same
6 operation. And what is Exhibit 142?

7 A. This is another note that was retrieved out of a "Houston
8 Chronicle" newspaper stand in front of the Wal-Mart in --
9 again, in Cypress.

04:18 10 Q. And what is the 20-dollar bill that's contained there in?

11 THE COURT: It was what? What was the purpose of it?
12 What was it there for?

13 THE WITNESS: The 20-dollar bill?

14 THE COURT: Yes.

04:18 15 THE WITNESS: We didn't tell him. It was just -- but
16 we told him to purchase an item in this note. And we didn't
17 give him instructions on what to do with the 20, but we
18 anticipated he would use the 20 to purchase the items.

19 BY MR. MCINTYRE:

04:18 20 Q. And let's look at Exhibit 145. Again, from this same
21 operation, what is Exhibit 145?

22 A. This is a note that was hidden in the CHS's gas cap. And
23 the defendant was directed, near the end of the operation, to
24 end up at the car. And this is a note that directs the
04:19 25 defendant to do four or five more things on his way to meeting

04:19 1 the CHS.

2 Q. Now, there was a short meeting on March the 4th of 2010.

3 Is that correct?

4 A. Yes.

04:19 5 Q. Can you briefly tell us what occurred at the meeting of
6 March the 4th, 2010?

7 A. The CHS arrived at the defendant's apartment complex,
8 walked inside. They had prayer together. This was very early
9 morning. It's called a "fajr" prayer, which is the first
04:19 10 prayer of the morning. They weren't inside more than a few
11 minutes. They came outside and sat in the car together, the
12 CHS's car, which is wired. And after a short meeting, they --
13 the defendant went back into his house.

14 Q. Now, there was a more substantial meeting on March the 14th
04:20 15 of 2010. What sort of planning and preparation did you take in
16 anticipation of the March 14th, 2010, meeting between the
17 confidential source and the defendant?

18 A. Again, this had some degree of secrecy and trade craft in
19 it, as well. By this point in the relationship, they had
04:20 20 created, between the defendant and the CHS, code words, a word
21 to represent a place that they had previously been. And in
22 this particular case, on the 14th, they were supposed to meet
23 at "ice," which is the place I previously mentioned where there
24 was something hidden behind the ice machine in Navasota.

04:20 25 They met at the time. What we set up was that

0 4 : 2 0 1 the -- the CHS was to take the defendant to a particular
2 pharmacy in College Station to obtain passport photos and then
3 go to another location and obtain a dead-drop of a French book.

4 Q. And where would the French book be that was at the
0 4 : 2 1 5 dead-drop?

6 A. It was hidden in a newspaper stand outside the IHOP in
7 College Station.

8 Q. Now, during the course of the surveillance, did you see the
9 defendant and confidential source drive to two separate
0 4 : 2 1 10 pharmacies?

11 A. Yes.

12 Q. And what did you learn about whether the pharmacies could
13 make the passport photos that were requested of the defendant?

14 A. Both pharmacies were open, but the person that took the
0 4 : 2 1 15 passport photos was not there; so, they weren't able to take
16 photos.

17 Q. And then, ultimately, what happened after they weren't able
18 to get the passport photos from the two pharmacies?

19 A. This was a meeting that we had instructed the CHS to
0 4 : 2 1 20 finally say exactly who he worked for and who he was a part of.
21 And he told him -- told the defendant he worked for al-Qaeda in
22 the Arabian Peninsula. And previous to this -- we chose
23 passport photos specifically because the defendant did not have
24 a passport but said he didn't want to obtain another one. So,
0 4 : 2 2 25 after both pharmacies did not have passport photos, the CHS

0 4 : 2 2 1 began to text with his phone me and then, eventually, when they
2 returned to Navasota, the CHS came up with an excuse for the
3 defendant to leave the vehicle. So, the CHS called me for
4 permission -- this is an example of the CHS is kept in certain
0 4 : 2 2 5 guidelines and can't act on his own -- called me for
6 permission, because the defendant had offered that he still had
7 passport photos left from his previous attempt to travel in
8 2009 and could take the CHS to his house, his apartment, to
9 pick those up. The CHS was asking for permission from me to do
0 4 : 2 2 10 that. I gave it to him.

11 Q. And then, after you gave him permission, what was he
12 observed on surveillance doing?

13 A. They left the McDonald's and went back across the street to
14 where the defendant had his vehicle. The CHS followed the
0 4 : 2 3 15 defendant back to the apartment. I recall distinctly being
16 behind him, and he was going at a high rate of speed past a
17 marked unit that had pulled someone over, drove past the Waller
18 County jail, that I knew he was familiar with, drove to his
19 apartment and ran inside, ran back outside, got back to the
0 4 : 2 3 20 CHS's vehicle and provided a single passport photo with his
21 likeness.

22 Q. Let me show you what is marked as Exhibit 187 and ask you
23 if you recognize 187.

24 A. It's a photocopy of the passport that I seized out of the
0 4 : 2 3 25 CHS's car after the defendant placed it there.

0 4 : 2 3 1 Q. Now, on March 29th, 2010, there was a meeting. Can you
2 tell me what the purpose of the meeting was in regards to
3 March 29, 2010?

0 4 : 2 4 4 A. For purposes of the investigation, all throughout this,
5 there's -- you have to understand there's a number of e-mails
6 going on between this -- there's a lot of conversations between
7 the CHS and the defendant, and we're reacting to what they say.
8 And in this case, we assessed that the defendant was getting a
9 little bit antsy about getting overseas as soon as possible.

0 4 : 2 4 10 So, the purpose of this meeting was to meet,
11 carry on the conversation, discuss the steps that both of them
12 were taking in order to get the defendant overseas and
13 specifically take the defendant by the Prairie View volunteer
14 fire station, which is about a mile away from the defendant's
0 4 : 2 4 15 residence.

16 That was the place, we informed the CHS, that
17 would be the meeting location when the defendant, if he agreed
18 to, eventually would leave the country from.

0 4 : 2 4 19 Q. And this place, this volunteer fire department, where he
20 was going to have the meet when he left the country and went
21 overseas, did the defendant and the source come up with a code
22 name for that particular location that they were supposed to
23 meet at?

0 4 : 2 5 24 A. They did. They used codes frequently at this point in
25 e-mails. But the defendant was instructed that this

04:25 1 particular -- when they finally left, it would be done by a
2 text message. So, they needed a word; and the defendant chose
3 "hot fries."

4 Q. "Hot fries"?

04:25 5 A. "Hot fries."

6 Q. Now, let me show you what is marked as Exhibit 192. And
7 can you tell me what Exhibit 192 is?

8 A. It's a response from the CHS back to -- PatLex19@Yahoo.com,
9 which is an e-mail account created by the defendant. And it's
04:25 10 a response to the lower e-mail, where the defendant puts
11 together a list of things that he will need in order to go what
12 they called "camping," which was to travel overseas.

13 And by this point the defendant had already been
14 told that the CHS worked for AQAP, which is al-Qaeda in the
04:26 15 Arabian Peninsula.

16 Q. And what were the items in the e-mail that the defendant
17 listed as items that he could use to go "camping," which meant
18 going overseas?

19 A. A good backpack, good walking shoes, a sleeping bag, a rain
04:26 20 jacket, a travel towel, a water bottle, a first aid kit, a
21 personal pouch to hold valuables, food stuff.

22 Q. Now, there were multiple e-mail accounts that the defendant
23 used during the course of his communications with the
24 confidential source. Is that correct?

04:26 25 A. Yes, sir.

0 4 : 2 6 1 Q. And many, if not all, of those e-mails contain the number
2 19. Is that correct?

3 A. Some of them do, yes.

4 Q. And what's the significance of the number 19 that's
0 4 : 2 6 5 contained within the defendant's e-mails?

6 A. The defendant was asked to create e-mails that wouldn't
7 lend themselves to be tracked. And one of which -- like, one
8 example is use certain letters that don't exist in the Arabic
9 alphabet and then choose a favorite number. The defendant
0 4 : 2 7 10 chose 19. And based on my training and experience, people that
11 think the way that the defendant does, 19 has a symbolic value
12 because of the 19 hijackers.

13 THE DEFENDANT: Objection.

14 THE COURT: What's the objection?

0 4 : 2 7 15 THE DEFENDANT: He's basing that purely off
16 speculation. There's nothing where I've ever mentioned why I
17 personally have 19 as a favorite number. That's always been my
18 favorite number, and it's not for the reason he just listed.

19 THE COURT: Response?

0 4 : 2 7 20 MR. McINTYRE: It's based on his training and
21 experience, your Honor.

22 THE COURT: All right. Then, hearing the defendant's
23 objection -- okay? Overruled. But I'll allow it to go to the
24 weight, not to the basic admissibility. Basic admissibility is
0 4 : 2 7 25 objection sustained. As to what weight we give it, I

04:27 1 understand your position and will consider it.

2 Go right ahead.

3 MR. McINTYRE: Yes, your Honor.

4 BY MR. McINTYRE:

04:28 5 Q. Now, after the e-mail that's shown in Exhibit 192 regarding
6 camping and the things that they needed to have for camping,
7 was there a meeting on April the 9th of 2010?

8 A. Yes, sir. We set up a meeting where we -- the CHS and the
9 defendant would meet. They will travel to the same Starbuck's
04:28 10 they had been in to -- by the Best Buy on January 20th. And
11 the defendant was directed to bring the items that he had
12 already procured for his travel, so that the CHS could offer
13 his advice and determine whether or not it was suitable for
14 where he was going and the austere conditions.

04:28 15 Q. And did that -- did surveillance observe that meeting
16 transpire?

17 A. Yes.

18 Q. And were they observed looking at the camping items, so to
19 speak, that were contained within the vehicle?

04:29 20 A. Yes. The defendant and the CHS were observed at the trunk
21 of the defendant's white Prizm.

22 Q. Let me show you what is marked as Exhibit 195, and can you
23 tell me what Exhibit 195 is?

24 A. That's the defendant on the left, as I'm looking at it, and
04:29 25 on the right is the CHS and inside the trunk they're looking

0 4 : 2 9 1 and touching the items that -- the camping items.

2 Q. Now, on April 23rd of 2010 did you make preparations for
3 another one of these dead-drop meetings that was supposed to
4 take place at Memorial Park?

0 4 : 3 0 5 A. Yes. We -- there was a number of e-mails setting up the
6 meeting, again using the code words "Meet at Chinatown," which
7 was the Chinese restaurant they met at after looking for the
8 note behind the Flamin Hot Funyuns on February 21st. The
9 instructions were given to the defendant to wear workout
0 4 : 3 0 10 attire.

11 Again, we were going back to the things that we
12 knew the defendant had already discussed, about working out,
13 and the things that were in the "42 Ways."

14 We on -- we set up a dead-drop that was to be
0 4 : 3 0 15 explained to the defendant as if it was between two al-Qaeda
16 operatives, al-Qaeda in the Arabian Peninsula operatives, where
17 the CHS was supposed to receive travel documents for the two of
18 them to travel overseas. So, we set in place a dead-drop in
19 Memorial Park in Houston.

0 4 : 3 1 20 Q. And what items did you place out at Memorial Park? How did
21 you set up signals so that they would know where the pickup
22 zone was, and then what items were used to conceal the false
23 identification cards that would be used for travel?

24 A. We set up a fairly elaborate surveillance, both where --
0 4 : 3 1 25 wherever the defendant was and then at the actual site where

0 4 : 3 1 1 the cards were going to be placed.

2 At Memorial Park, we took two fraudulent TWIC
3 cards, which are Transportation Worker Identification
4 Credential cards, which are issued by TSA, used to get into
0 4 : 3 1 5 ports and other facilities that are controlled by TSA for
6 security reasons, created two fake cards, one bearing the exact
7 same photo that was provided by the defendant of himself on a
8 previous meeting to the CHS and the other with the CHS's photo.
9 We used a name that the defendant was currently using in his
0 4 : 3 2 10 e-mails and created some fraudulent dates of birth.

11 We wrapped those into a very tightly wrapped
12 package, containing a very short Arabic note as if it was from
13 one operative to another. That, in turn, was placed inside an
14 empty playing card box, like poker cards. All that together
0 4 : 3 2 15 was placed into a hollowed out rock and then placed at a
16 particular grove of rocks in Memorial Park, along the running
17 trail.

18 About 20 yards away, there's a small post and on
19 the post is a green plastic box that people, when they're
0 4 : 3 2 20 walking their dogs, can grab bags to pick up droppings. And on
21 that post we placed a bandaid as if it was a signal from the
22 operative that left it to the operative that was to pick it up
23 that the thing that they wanted to pick up was actually there.
24 Q. And did surveillance observe the defendant and the
0 4 : 3 3 25 confidential source after they arrived at Memorial Park, and

04:33 1 can you tell the Court what they did once they arrived there?

2 A. They parked at the location that the CHS was directed to
3 park. They exited. They jogged for a very short distance.

4 Then they walked to the signal site, which is what I just

04:33 5 described, the doggie box. And they went back to the grove,

6 which is -- there's a flag pole there and things. And the

7 defendant was observed looking for the rock and was observed

8 picking up something and placing it -- he was wearing a track

9 suit at the time, and it was placed in the track suit.

04:33 10 The CHS was observed as if he was stretching on a

11 park bench, which is what he had been coached to do to make it

12 look like he was conducting countersurveillance. And then they

13 both went back to the CHS's vehicle.

14 They were observed in a short period of time at

04:33 15 the rear of the vehicle. It was an SUV. The hatch was open,

16 and they were looking at a footlocker. In two or three

17 minutes, they both got back in the car and drove back to what

18 was called "Chinatown."

19 Q. What was the purpose of the confidential source and the

04:34 20 defendant looking at a black footlocker?

21 A. We provided a footlocker, and we instructed the defendant

22 that all his items that he would need to travel needed to fit

23 inside that footlocker at the time of travel. So, it gave him

24 an idea how much stuff he could bring or not bring.

04:34 25 Q. Let me show you what has been admitted as Exhibit 217

0 4 : 3 4 1 that's related to this dead-drop operation and have you explain
2 what that is to the Court.

3 A. These are pictures we took of the fraudulent TWIC cards.
4 The one on the left, as I'm looking at it, is the defendant's.

0 4 : 3 4 5 The one on the right is the one we created for the CHS.

6 Q. All right. And let me show you what is marked and admitted
7 as 218.

8 A. These are the reverse side of both of those cards.

9 Q. And 219?

0 4 : 3 5 10 A. Those are the cards as they were -- these are pictures we
11 took as we were wrapping it, to do complete chain of custody.
12 So, they're being wrapped in some brown paper.

13 Q. And 220?

14 A. That's the note that was placed with the package.

0 4 : 3 5 15 Q. And what language is that written in?

16 A. It's in Arabic.

17 Q. And 221?

18 A. That's the complete package on the bottom, with the rubber
19 band, and the note again.

0 4 : 3 5 20 Q. And Exhibit 223?

21 A. That's what it would have looked like with a -- that's the
22 final package. We photoed it before we put it in.

23 Q. And 224?

24 A. That's another view.

0 4 : 3 5 25 Q. And 225, can you tell the Court what 225 is?

04:35

1 A. That's the walking path -- or running path at Memorial
2 Park. And that's the -- what I am calling the "signal site,"
3 on the far right.

04:36

4 Q. And are you referring to the green box that's hanging on a
5 post?

6 A. Yes, sir.

7 Q. How did you signal with the drop zone?

8 A. There was a bandaid placed on the side.

04:36

9 Q. Let me show you what is marked as 226. And what is this
10 location?

11 A. There's a grove, what they call a "grove." And that's the
12 George and Barbara Bush Presidential Grove. And there's a flag
13 pole. It's what you see on the far right. And there's park
14 benches around it.

04:36

15 And this is a bunch of rocks, and there's a
16 plaque on that rock that's to the top middle. And, then, right
17 dead center, the tan rock is our rock that we had hollowed out
18 as a concealment device.

19 Q. And Exhibit 227?

04:36

20 A. That's after the operation, to recover it, to ensure that
21 it was gone. That's the reverse side of that same rock. So,
22 that's the cavity where we hid the TWIC cards.

23 Q. And Exhibit 229?

04:37

24 A. At the conclusion of the meeting, as the CHS has always
25 been directed that he's not allowed to do anything with

04:37 1 anything he receives during a meeting, he exits the vehicle
2 after we do the post downloads of the devices. And we photo in
3 place anything that's recovered. In this case, there's the
4 note, there's the packing material, and then there's the
04:37 5 playing card box that all that was in.

6 Q. And let me show you what is marked Exhibit 230, and can you
7 tell me what that is and how you came into -- it came into your
8 possession?

9 A. This is a photocopy of some e-mail pages that were printed
04:37 10 out and provided by the defendant to the CHS during that
11 meeting. They were folded over and had some -- you can see
12 copies of where there were some highlighted marks. Those were
13 highlighted by the defendant when he handed them to the CHS.

14 Q. And the defendant handed these documents to the
04:38 15 confidential source in a -- I guess a hard paper format, not
16 electronically. Is that correct?

17 A. Yes, sir.

18 Q. And what is the substance of this information, I guess,
19 that he has here and then also what he's highlighted for the
04:38 20 purposes of, I guess, the confidential source?

21 A. This is a website GlobalSecurity.org, where you can --

22 THE COURT: Slow down a little bit.

23 THE WITNESS: Yes, sir.

24 This is a website. It's called
04:38 25 GlobalSecurity.org. You can find out all manners of things

0 4 : 3 8 1 dealing with intelligence and militaries globally. This is a
2 section on the MQ-1B Predator, which is commonly known as the
3 "Predator," which is a drone, or unmanned aerial vehicle, used
4 by the US. And at this point in time and today, it's commonly
0 4 : 3 8 5 used in military operations.

6 There's highlighted portions about particular
7 places where certain activities take place, dealing with what I
8 am calling "drones." What's highlighted on this page is the
9 contractor, the defense contractor, that actually builds and
0 4 : 3 9 10 produces these for the US Military. And it's in California.
11 Q. And if we go to Page 3, there's another document that was
12 given to the confidential source by the defendant. Is that
13 correct?

14 A. Yes.

0 4 : 3 9 15 Q. And what is this document in reference to that was given
16 over by the defendant to the confidential source?

17 A. There's a couple of highlights at the bottom; and it's
18 highlighting specific units that are resident on Creech Air
19 Force Base, which is in the vicinity of Las Vegas, Nevada.

0 4 : 3 9 20 This is a followup to a number of e-mails and discussions
21 between the defendant and the CHS about the use of drones by
22 the US Military against jihadis and what they -- the defendant
23 and the CHS call "brothers" over in Afghanistan and Yemen and
24 Iraq.

0 4 : 3 9 25 THE COURT: State again if you would -- maybe I missed

0 4 : 4 0 1 it. Where does your understanding -- what is your
2 understanding as to where the defendant got that?

3 THE WITNESS: My understanding --

4 THE COURT: By "that" I mean -- what exhibit number?

0 4 : 4 0 5 MR. McINTYRE: It's 230, your Honor.

6 THE COURT: Yeah.

7 THE WITNESS: The Internet, your Honor.

8 THE COURT: Right off the Internet.

9 THE WITNESS: Printed out, highlighted, and delivered.

0 4 : 4 0 10 BY MR. McINTYRE:

11 Q. And during the course of your investigation, were there
12 multiple e-mails --

13 THE COURT: Hold it. Let me just ask you this. Is
14 this -- is this one of the items -- I'm looking at the
0 4 : 4 0 15 indictment. This, then, is not one of the public access
16 restricted US Military publications, right?

17 THE WITNESS: No, your Honor.

18 THE COURT: It is not. Okay. It's just adding to the
19 weight of intent, I suppose. Is that correct?

0 4 : 4 0 20 THE WITNESS: Yes, your Honor.

21 THE COURT: Okay. Thank you.

22 BY MR. McINTYRE:

23 Q. And during the course of the correspondence between the
24 source and the defendant, were there many e-mails from the
0 4 : 4 0 25 defendant that referenced drones and Predators and unmanned

04:40 1 aerial vehicles?

2 A. There were. And to include actual publicly available
3 US Army manuals on unmanned aerial vehicles, which is a drone.

4 Q. Now, let me take you to -- there's essentially two more
04:41 5 meetings. Let me take you to a meeting on May the 3rd of 2010.
6 And let me ask you what the purpose was of that meeting and
7 what sort of preparation you took in anticipation of it.

8 A. We were -- "we" is the FBI, the JTTF -- were ready to -- we
9 believed that the defendant was ready to travel and he knew the
04:41 10 person he was traveling with was a member of al-Qaeda in the
11 Arabian Peninsula.

12 So, in order to make the trip logistically
13 feasible and plausible, we had to do a number of things. And
14 in this particular meeting, we had already -- by this point we
04:42 15 had already shown him TWIC cards and kept them. This meeting
16 that we're about to talk about on the 3rd, the goal was to
17 provide the defendant with a cell phone, prepaid cell phone, so
18 that the final meeting can be communicated by text message.

19 And, then, the second goal was to show the
04:42 20 defendant some public access restricted military manuals and
21 publications, one of which was dealing with UAVs, or drones;
22 make sure that the -- we directed the CHS to make sure he told
23 the defendant that they were restricted.

24 And then we set up some props in the car to make
04:42 25 it look like the CHS had traveled recently and been provided

04:42 1 these public access restricted manuals to be shown to the
2 defendant because the defendant had shown to the CHS that he
3 knew a lot about drones and was willing to find out things
4 about drones.

04:43 5 THE COURT: Were they truly restricted or you just
6 said that -- your person said that they were?

7 THE WITNESS: Your Honor, they were. We went to the
8 military and requested them, and they were restricted. They're
9 marked, clearly marked on the front and the back.

04:43 10 BY MR. MCINTYRE:

11 Q. Let me show you what is marked as Government's Exhibit
12 Number 279, and I'll ask you what Government's Exhibit 279 is.

13 A. It's a photograph of one of the public access restricted
14 manuals.

04:43 15 This one is -- in the upper right-hand corner is
16 essentially the way the military tracks a manual. It's "FM,"
17 which is "Field Manual" and it has a number and then it has a
18 title. In this case the title is "Army Unmanned Aircraft
19 Systems Operations."

04:43 20 Q. And in the first paragraph below that, does it talk about
21 the restrictions associated with this manual?

22 A. Yes, it does.

23 Q. And let me show you what is marked as Government's Exhibit
24 280 and ask if you recognize Government's Exhibit 280.

04:44 25 A. Yes.

0 4 : 4 4 1 Q. What is this --

2 THE COURT: Let me ask you this. Do you know if any
3 copies were made by the defendant of those restricted manuals
4 before the final arrest was made in this case?

0 4 : 4 4 5 THE WITNESS: Your Honor, based on our agreement with
6 the military and the way we set up the operations, the
7 defendant was never allowed to take the manuals away from a
8 meeting in this particular meeting. And then, when he was
9 provided them on the day of his arrest, he would not -- he did
0 4 : 4 4 10 not have access to a copier.

11 THE COURT: What, he was provided them before he got
12 on that boat to Yemen?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right. That's how it worked?

0 4 : 4 4 15 BY MR. MCINTYRE:

16 Q. And Exhibit 280, can you tell me what that is and what the
17 title of that particular military manual is?

18 A. The title is "CALL," C-A-L-L, which is -- it's "Center for
19 Army Lessons Learned," which is a place at Fort Leavenworth
0 4 : 4 5 20 where they study different things that have taken place in
21 battles in order to learn lessons, as it implies.

22 The title of it is "Weapons Effects in Urban
23 Operations." And it says at the bottom, "Tactics, Techniques,
24 and Procedures."

0 4 : 4 5 25 I reviewed this at the time that we chose it.

0 4 : 4 5 1 I'm familiar with it from my time in the military. It's
2 classified. It's for official use only. It's only allowed to
3 go to certain countries, and it's supposed to be destroyed
4 otherwise.

0 4 : 4 5 5 But it specifically deals with how well the
6 weapons that the US Military had when they went into
7 Afghanistan worked, and it's designed to provide military
8 commanders that are about to deploy in Afghanistan some
9 guidance on should you use this weapon versus that weapon or
0 4 : 4 5 10 this type of round versus that type of round because -- whether
11 it's working or not.

12 Q. Now, also during this meeting, you talked about providing
13 the defendant a phone. Is that correct?

14 A. Yes, sir.

0 4 : 4 6 15 Q. And what was the purpose of providing the defendant a phone
16 on May the 3rd, which was preceding the May 30th, 2010,
17 meeting?

18 A. Again, continuing the clandestine nature of the work that,
19 you know, something so important as a message to travel
0 4 : 4 6 20 overseas to be with al-Qaeda in the Arabian Peninsula, we were
21 going to switch up communications again. Instead of the same
22 old e-mails, there would be text messages created and sent.

23 So, the FBI, we purchased a couple of -- two
24 prepaid cell phones, made sure they had service, provided the
0 4 : 4 6 25 two to the CHS with instructions to provide one to the

0 4 : 4 6 1 defendant, for the two of them to make sure they worked, and
2 then instruct the defendant this was to be used only for --
3 checked at certain times of the day and that if he got the
4 message for hot fries then that meant to go to the place that
0 4 : 4 6 5 they had already seen and that was the day they were leaving.

6 Q. Now, preceding the May 30th, 2010, meeting, how did the
7 confidential source communicate to the defendant that he was to
8 meet at hot fries and ultimately leave the country?

9 A. There was a text message and then there was -- it was
0 4 : 4 7 10 followed up with an e-mail. And there may have been a second
11 text message. I don't recall. But there was definitely one
12 text message on the 29th telling the defendant that after
13 midnight on the 30th, "hot fries."

14 Q. And, now, preceding this May 30th, 2010, operation, I
0 4 : 4 7 15 assume there was a lot of planning and preparation on the part
16 of the FBI. Is that correct?

17 A. Operation of this magnitude requires a lot of help. We had
18 to obtain search warrants. We had to obtain an arrest warrant
19 for charges. We had to set up surveillance, both at the
0 4 : 4 7 20 residence of the defendant and then at the Port of Houston
21 where we intended the defendant to go if he chose. We had to
22 arrange for cameras and all the recording devices. We had a
23 plane. We had people to set up for interviews. It was pretty
24 extensive.

0 4 : 4 8 25 Q. And just operationally, what was the plan as far as where

0 4 : 4 8 1 the confidential source would meet the defendant, what would
2 happen at the hot fries location, and then how they would
3 ultimately travel to the port, and then what would happen once
4 the confidential source and the defendant arrived at the port?

0 4 : 4 8 5 A. Okay. We broke it down into phases. Essentially, the
6 first phase was send a message, "hot fries," and observe the
7 defendant, whether or not he chose to leave in the middle of
8 the night and go to the hot fries location.

9 Then there was going to be a meeting where the
0 4 : 4 8 10 CHS was going to drive the defendant to the Port of Houston.
11 That was going to be followed by ground units and air units to
12 observe -- this is nighttime, so -- to observe the defendant
13 and the CHS go to the port.

14 At the port, we had set up a number of cameras,
0 4 : 4 8 15 had a number of role-players at the port, one posing as a guard
16 at the gate, the entrance to the port terminal. We had a
17 number of people set up to handle cameras. We had a few people
18 set up to pose as workers on the ship and workers around the
19 dock in order to make it safe for the FBI to operate there at
0 4 : 4 9 20 2:00, 3:00 in the morning.

21 Q. How did you gain access to a ship at the port?

22 A. We talked to a couple of agencies within the US
23 Government -- coast Guard, ICE, Customs and Border
24 Protection -- and determined that there would be a ship at that
0 4 : 4 9 25 particular place at that particular time and requested

04:49 1 assistance of using the ship in the hours that it was not
2 operational.

3 Q. Now, did surveillance observe the defendant leaving his
4 house on May 30th of 2010; and approximately what time was
04:49 5 that?

6 A. Surveillance did observe him leave. I don't recall the
7 exact time, but it was 15 minutes prior to the time when he was
8 directed to be at hot fries, which it's about a mile; so, that
9 was about right. But it was 1:00 or 2:00 in the morning. I
04:50 10 don't recall exactly.

11 Q. Let me show you what is marked as Exhibit 300. I'm going
12 to play a video clip that's marked as 300-1 and have you take a
13 look at that and have you tell the Court what this represents
14 or shows.

04:50 15 *(Tape playing)*

16 BY MR. MCINTYRE:

17 Q. Where were these photos taken from?

18 A. This is an infrared camera on an FBI plane that's flying
19 overhead at 20598 Pine Island Road. So, the defendant's
04:50 20 apartment complex.

21 Q. And on the video, can you see a person that's walking
22 that's close to the crosshairs?

23 A. Yes. I can see a person with a backpack and something
24 looks like, in his right hand, a gym bag.

04:51 25 Q. And approximately how long -- or how far was the distance

0 4 : 5 1 1 between the apartment and the meeting location which is called
2 hot fries?

3 A. It was about a mile.

4 THE COURT: So, he walked it?

0 4 : 5 1 5 THE WITNESS: Yes, sir.

6 BY MR. MCINTYRE:

7 Q. And this particular clip is shot at the apartment, shows
8 him leaving the apartment during the early evening hours. Is
9 that correct?

0 4 : 5 1 10 A. Yes, sir. This is still his apartment complex. He's
11 walking toward the exit of the complex.

12 *(Tape playing)*

13 BY MR. MCINTYRE:

14 Q. And what location is he at in relation to the apartment
0 4 : 5 2 15 complex?

16 A. His apartment would be to the left as you're looking at the
17 screen. He just walked through the gate. And, then, to the
18 upper right -- or upper right of the screen, where he's about
19 to walk past now, is the mailbox area. The road to the screen,
0 4 : 5 2 20 the right, that he's about to walk on now is Pine Island Road.
21 So, that's the entrance to the apartment complex.

22 And hot fries would be to the top of the screen,
23 just keep walking down that road, make another turn or two.

24 Q. Let me show you another clip from Exhibit 300, which is
0 4 : 5 2 25 going to show the defendant arriving at the hot fries location.

04:52

1 And you can tell me what you see on the screen.

2 (Tape playing)

3 A. To the left of the screen, the defendant is walking, near
4 the crosshairs. To the bottom right, that's the CHS's vehicle.

04:53

5 I see him running over.

6 He's been waiting about seven minutes at this
7 point. We were running a little late that day. We were kind
8 of busy.

9 BY MR. MCINTYRE:

04:53

10 Q. What is the confidential -- what is the defendant doing in
11 relation to the confidential source's car at this point?

12 A. He's trying to put things in the rear passenger door. And
13 then the CHS comes out and directs him to put the stuff in the
14 back of the vehicle, which they're about to do.

04:53

15 Q. Now, at some point during this video clip, did the
16 defendant get rid of the phones that were used to arrange the
17 meeting?

18 A. Yes. The defendant took the cell phone that he had and the
19 cell phone that the defendant [sic] had and goes and puts them
20 in the grass and dirt, kind of covers them up to hide them.

04:53

21 THE DEFENDANT: Objection.

22 THE COURT: What's the objection?

23 THE DEFENDANT: That's a false statement. The CHS --

24 THE COURT: Hold it. You can't testify at this point.

04:54

25 You object. You're saying it's a false statement? Overruled.

0 4 : 5 4 1 But we'll certainly consider your testimony as to
2 what happened if you elect to testify. Okay?

3 You understand the objection?

4 In other words, this is their position. If you
0 4 : 5 4 5 elect to testify yourself, then certainly you may contradict it
6 and tell us your version of what happened. All right,
7 Mr. Bujol?

8 THE DEFENDANT: All right.

9 THE COURT: All right. So, that's where we're at.

0 4 : 5 4 10 Go right ahead, please.

11 *(Tape playing)*

12 THE COURT: All right. What now?

13 THE WITNESS: They're still packing the vehicle, your
14 Honor; and they're about to leave in a few seconds, get rid of
0 4 : 5 4 15 the phones.

16 THE COURT: What exhibit is this, again, just for the
17 record?

18 THE WITNESS: It's Exhibit 300.

19 THE COURT: Thank you.

0 4 : 5 4 20 BY MR. MCINTYRE:

21 Q. And what are they packing into the back of the vehicle, if
22 you know?

23 A. The same gym bag that -- there's him putting the phones
24 down, the defendant.

0 4 : 5 5 25 The defendant -- all the items that had been

04:55 1 talked about in the camping list, all those items that had been
2 shown to the CHS on April 9 and discussed in e-mails, were in a
3 gym bag that the defendant carried. And there was also a small
4 black backpack.

04:55 5 So, all those items -- the gym bag was placed
6 into a black footlocker. The purpose of that was for our own
7 safety, the arresting officers. We didn't know what he would
8 bring. So, we wanted to secure it into a footlocker that we
9 could control once he got on the ship, if he went to the ship,
04:55 10 so that our guys would not be injured by anything he may have
11 brought.

12 Q. Now, that shows the vehicle leaving. Is that correct?

13 A. Yes, sir.

14 Q. All right. Now, after they drove away from the hot fries,
04:56 15 or the Prairie View Fire Department location, where did the
16 vehicle travel to?

17 A. We had instructed the CHS to take a very particular route
18 to allow us the most time at the port to order and stage
19 things. So, he took what I would call an indirect route to the
04:56 20 Port of Houston from hot fries, drove to the Port of Houston.

21 Q. Now, once they arrived at the port, were some of the -- can
22 you tell me what happened to the items that were in the
23 vehicle?

24 A. Well, this particular port is access controlled. You have
04:56 25 to have a reason to be there; you have to show identity -- a

04:56 1 card, TWIC card. So, there's a gate. You can't just wander
2 onto it. It's surrounded by fence or water, because it abuts
3 the Ship Channel.

04:56 4 Q. So, were they surveilled and actually photographed, the
5 defendant and the confidential source, entering the port?

6 A. Yes. We had -- one of the other officers on the JTTF was
7 posing as a security guard to accept the card and let them in.
8 And they were observed coming in -- coming into the facility
9 and parking. And then the items in the vehicle were unloaded.

04:57 10 Prior to this meeting, we had provided the CHS a
11 satchel, a tan satchel, containing a number of items: currency,
12 foreign currency; GPS receivers; batteries; flashlights;
13 prepaid phone cards; SIM cards out of cell phones; the same two
14 manuals that were restricted that he had seen on May 3rd and
04:57 15 had some commentary about with the CHS; there was a military
16 style compass; and two notes written by the CHS to a gentleman
17 and purported to be part of the movement al-Qaeda in the
18 Arabian Peninsula, that the CHS was part of.

19 Q. Approximately how much money was contained in the tan
04:58 20 satchel?

21 A. Again, because the defendant sent us a lot of complaints,
22 we were very attune to what was going on any given day. We
23 knew the defendant spent many, many hours a day on the
24 Internet. He was using somebody else's WiFi in that apartment
04:58 25 complex. He spent many, many hours online. So, we knew if it

0 4 : 5 8 1 was on the news chances are he knew about it. There had been
2 an arrest just before this of two gentlemen moving some
3 currency out of, I believe, Chicago airport.

4 So, we chose, instead of using American money,
0 4 : 5 8 5 which we thought might scare him, we used Euros. And we
6 used -- it was approximately 5,000 US dollars' worth of Euros.
7 It's in the neighborhood of either 2,030 or 2,080 Euros in
8 paper money.

9 Q. Now, these items that you just mentioned, once the
0 4 : 5 8 10 defendant and the confidential source arrived at the port, what
11 did they do with relation to those items?

12 A. The defendant?

13 Q. Yes.

14 A. He received them, put them on over his shoulder, which
0 4 : 5 9 15 is -- the satchel bag had the one single strap. And then also
16 had his other items. The CHS that we have been talking about
17 was instructed to in the presence of the defendant provide some
18 other money to a person that was working for the FBI and who
19 was posing as a ship worker who was being bribed to move the
0 4 : 5 9 20 defendant overseas. So, that all took place there near the
21 gate.

22 And, then, in a short while after that, an FBI
23 vehicle driven by another JTTF officer drove the three males
24 now -- the defendant, the CHS, and then the gentleman posing as
0 4 : 5 9 25 a ship worker -- drove them a third of a mile or so to the

04:59

1 dockside of the ship.

2 Q. Let me show you what has been admitted as Exhibit -- I'm
3 sorry -- 302. And it's marked on our program for video
4 purposes as 1D184.

05:00

5 Can you tell me what Exhibit 302 is?

6 A. This is a video from a camera that was emplaced in the
7 warehouse at the port. And it's facing the ship, and that's
8 the FBI vehicle I just discussed. Right in the center of the
9 screen is what's called a "gangway." So, that's the way that
10 anybody could get on the ship when it's pulled up alongside the
11 terminal.

05:00

12 That's the defendant. There's the satchel. The
13 gentleman in the reflective vest is the one I mentioned before,
14 and, then, the other person is the CHS.

05:00

15 Q. And what is he retrieving from the back of the vehicle at
16 the time?

17 A. That's the footlocker. We had instructed the gentleman in
18 the reflective vest to act like he knew his way around the
19 ship. So, he had to actually stop the defendant and get in
20 front because he thought it would look bad if the defendant
21 went up first. But the defendant clearly left quickly and got
22 up on the ship.

05:01

23 Q. And approximately what time is it right now when the
24 defendant is getting on the ship?

05:01

25 A. I believe it's around 2:30 a.m.

05:01 1 Q. And where is the cabin that he was being directed to at
2 this time?

3 A. It would just be off to the right of the screen, where
4 they're -- where they're at now. There was a maintenance cabin
05:01 5 just to the right.

6 Q. Now, once the defendant boarded the ship with the items
7 that you previously talked about, which are charged in the
8 indictment as material support, how long was he in the cabin
9 before there was an arrest plan effected?

05:02 10 A. I believe it was four or five, maybe six minutes. We had
11 directed the arrest team at the briefing we wanted to give the
12 defendant time to enter the cabin and leave of his own accord.
13 And we tactically decided five or six minutes was appropriate.

14 Q. Now, as a part of the arrest plan, who did you have go in
05:02 15 and effect the arrest on the defendant once he was in the cabin
16 of the ship?

17 A. We had an FBI SWAT team enter the cabin and arrest him.

18 Q. And once he was arrested, how long was it before he was
19 transported out of the ship?

05:02 20 A. I believe he was left in the cabin about 10 minutes or so,
21 so that we could set the conditions on the dock and he could be
22 safely brought overboard. We had a Coast Guard boat around the
23 corner in case anybody fell overboard or got pushed over board.

24 But we also wanted to have both of the
05:03 25 cooperating individuals, the CHS and the guy in the reflective

05:03 1 vest that we just showed, laid out like they were being
2 arrested, as if everyone was being caught and everyone was part
3 of the operation.

4 Q. What was the purpose of having the confidential source
05:03 5 appear as being arrested as the defendant left the ship under
6 arrest?

7 A. That allowed myself and the other co-case -- the other case
8 agent some flexibility when we got to the -- what we hoped
9 would be a post-Miranda interview, to see where he thought what
05:03 10 was going on with what happened that night.

11 Q. Now, in relation to the cell phones, where it shows an
12 individual walking away from the car and getting rid of cell
13 phones, were those eventually recovered?

14 A. Yes.

05:03 15 Q. Where were they recovered?

16 A. In the location that we just saw. We sent an agent over,
17 recovered them, and booked them into evidence according to
18 procedure.

19 THE COURT: You mean out of where? The dirt?

05:04 20 THE WITNESS: Yes, your Honor. It was --

21 THE COURT: Buried?

22 THE WITNESS: Yes.

23 THE COURT: You dug them up?

24 THE WITNESS: I wouldn't use the word "dug." It was
05:04 25 covered, but it wasn't in a hole.

05:04 1 THE COURT: All right. Let me just ask. It's now
2 5:05. I plan to go on for another hour. Do you want to take a
3 10-minute break? Otherwise, we're going to keep going. I'll
4 leave it up's to you-all? Anybody want to take a break?

05:04 5 Cher, how you doing?

6 THE COURT REPORTER: I'm fine.

7 THE COURT: Anybody?

8 Come on. We're all among family here, so to
9 speak. Anybody want to take a break, rather than go two hours
05:04 10 straight?

11 You okay, Mr. Bujol?

12 Oh, you have to go? My intern, law intern has to
13 go. All right. We'll see you tomorrow. Got to go to school.

14 Aside from that, fine. Let's just keep going.

05:05 15 BY MR. MCINTYRE:

16 Q. Let me show you Exhibit 303 and ask you to describe these
17 photos, and I'm going to go through a series of photos. What
18 is Exhibit 303?

19 A. This is a still taken from yet another person working on
05:05 20 the operation, at our direction, who observed the defendant and
21 the other gentlemen before they entered the ship. In the upper
22 right-hand corner is -- I think one of our agents who's posing
23 as if he's a ship crew member, as well.

24 Q. And let me show you Exhibit 304. Again, that's another
05:05 25 photo. Is that correct?

05:05

1 A. That's the defendant --

2 THE COURT: Is that going up to the ship, initially?

3 THE WITNESS: Yes, your Honor.

4 THE COURT: What we saw in the movie and in the video?

05:05

5 THE WITNESS: Yes, your Honor.

6 THE COURT: All right.

7 THE WITNESS: And this is the defendant walking up
8 with the satchel, backpack; and then there's the footlocker
9 between the two of them.

05:05

10 BY MR. MCINTYRE:

11 Q. Let me show you what is marked as Exhibit 305, again,
12 another photo of the defendant walking onto the ship. Is that
13 correct?

14 A. Yes.

05:06

15 Q. And let me show you what is marked as Exhibit 306.

16 A. That's them actually on the ship at this point. So, we
17 had -- as part of the operation had a number of cameras,
18 approximately eight or nine video at this location. Because,
19 to us, that constituted -- getting on the ship was across the
20 threshold to go overseas.

05:06

21 Q. And Exhibit 307?

22 A. That's the defendant with the cooperator, the agent. And,
23 then, the room that -- the hatch that you see to the right
24 that's got a little red emblem on it, that's the room that the
25 defendant went into and was eventually arrested in.

05:06

05:06

1 Q. Government's Exhibit 308?

2 A. That's the door being opened to allow the defendant in.

3 Q. Now, starting on Exhibit 268, there's some -- these are the
4 items seized from the defendant. And let me show you what 268
5 is and have you describe it.

05:07

6 THE COURT: You're saying "seized from the defendant."
7 Lay out where. Was it in that trunk or was it in his backpack
8 or whatever?

9 BY MR. MCINTYRE:

05:07

10 Q. Okay. Can you tell me what Exhibit 268 is?

11 A. It is a picture of the tan satchel prior to us executing --
12 "us" is JTTF, myself and others -- executing a federal search
13 warrant on the belongings of the defendant after he was
14 arrested.

05:07

15 THE COURT: You said you had that ahead of time? You
16 had that warrant ahead of time?

17 THE WITNESS: No, your Honor. We had to get it after.
18 After. It had to be approved at Washington.

19 BY MR. MCINTYRE:

05:07

20 Q. And can you tell me what Exhibit 269 is?

21 A. This is the backpack the defendant was wearing and the hat
22 that the defendant was wearing when he got on the ship.

23 Q. And Exhibit 272?

24 A. These are the items -- a picture of the items as we were
25 doing the search warrant, of the tan satchel.

05:08

05:08 1 Q. And, again, that's the tan satchel that the photos and the
2 video show the defendant getting on the ship with, correct?

3 A. Yes.

4 Q. Can you tell us what these items are?

05:08 5 A. Upper left-hand corner there's a flashlight with a number
6 of packs of Lithium batteries.

7 THE COURT: Is that what -- they had sort of like a
8 red label on it?

9 THE WITNESS: Yes, your Honor.

05:08 10 THE COURT: Okay. We'll go left to right, and then
11 keep going left to right, top to bottom.

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. In the middle, what is it?

14 THE WITNESS: Middle top, there's two GPS receivers
05:08 15 inside a Ziploc bag, with all the cables and manuals. Next to
16 that is a white envelope which contains the currency and the
17 letters. Underneath that is a Ziploc bag containing a few
18 hundred dollars' worth of prepaid calling cards. And there's
19 also a SIM card for a cell phone in there.

05:08 20 Bottom left is the "Weapons Effects" restricted
21 manual dealing with weapons in Afghanistan we talked about
22 before. Bottom middle is the distribution restricted UAV
23 manual from the army. Lower right is a package, the lensatic
24 military style compass.

05:09 25 BY MR. MCINTYRE:

05:09 1 Q. Now, the envelope that contains the letters that's
2 referenced in this photo, were those written in Arabic or
3 English?

4 A. Arabic.

05:09 5 THE COURT: What? Say that again.

6 THE WITNESS: Arabic.

7 THE COURT: No repeat the question, please.

8 BY MR. MCINTYRE:

9 Q. The letters that are contained in the envelope that's
05:09 10 referenced in this photo, were those letters written in Arabic
11 or English?

12 A. Arabic.

13 Q. And who was the letter addressed to and what was the
14 defendant supposed to do with those letters?

05:09 15 A. They were addressed to a person named Abu Bakr, who the CHS
16 was directed to write the letters and inform the defendant that
17 Abu Bakr was the person that was going to meet the defendant
18 when he made it on the other end of the ship. And there was a
19 code word passed of how Abu Bakr would know it's the defendant
05:10 20 and how the defendant would know it's Abu Bakr.

21 And the defendant was told to keep this with him
22 at all times and provide those monies and these other items, to
23 include the correspondence, to Abu Bakr. Specifically the
24 correspondence, they discussed that it had to do with what
05:10 25 mission that the CHS was in the US to complete.

05:10 1 THE COURT: Which was?

2 THE WITNESS: Prior to this, they had discussed
3 that -- the defendant was so interested in drones, the CHS
4 informed the defendant that his purpose for being in Texas, in
05:10 5 this general area, was to look at whether drones were flown out
6 of Ellington or other bases in the US to target al-Qaeda in the
7 Arabian Peninsula overseas, the armed drones with the Hellfire
8 missiles.

9 THE COURT: Go on. Next question.

05:11 10 BY MR. MCINTYRE:

11 Q. Let's go to Exhibit 274. And these were the letters that
12 you referenced to go to Abu Bakr, correct?

13 A. Yes, sir.

14 Q. And 275, what is 275?

05:11 15 A. The two letters are folded and then currency, the Euro
16 bills, are in that envelope.

17 Q. The let me show you what is marked as 276.

18 A. Those are the same bills splayed out to get an idea of the
19 volume.

05:11 20 Q. 277?

21 A. Inside the Ziploc bag there's some SIM cards, and outside
22 the bag are a bundle of prepaid calling cards.

23 Q. What is a "SIM card"?

24 A. It's the card that goes in the phone, allows it to operate
05:12 25 and carries identifiable information. Essentially, you can

05:12

1 move SIM cards between cell phone to cell phone and take the
2 information that's stored on the phone with it. So --

3 Q. Let me show you what's been admitted as Exhibit 278. Can
4 you tell me what 278 is?

05:12

5 A. It's a military style lensatic compass.

6 Q. What does a lensatic compass do?

7 A. It's a more accurate compass that -- you know, for land
8 navigation. This one actually has some luminous radioactive
9 kind of isotope on it so it can be seen in the dark. It's used

05:12

10 commonly, something very similar to that, in the military, US
11 military.

12 Q. Show you what is marked Exhibit 279. Again, that's a
13 restricted manual. Is that correct?

14 A. Yes. And it's got the destruction notice to destroy by any
15 method that will prevent the disclosure.

05:12

16 Q. And 280?

17 A. That's the -- that's the "Weapons Effects" manual. It's
18 restricted.

19 Q. And Exhibit 282?

05:13

20 A. That's the GPS receivers and all the accessories.

21 Q. Now, during the course of this investigation, did you learn
22 that the defendant had hidden a file on his computer at home?

23 A. Prior to this date, based off of looking at the audio and
24 the video of the meetings, of all the meetings up to this

05:13

25 point, there was discussion on multiple occasions by the

05:13 1 defendant that -- he actually joked and bragged that he was
2 going to take a page out of the CHS's book and hide a message.
3 Just like there had been messages hidden throughout the
4 operation for him, he was going to hide a message for his wife.
05:13 5 Because his plans were not to inform his wife of his leaving.

6 So, we were aware that he had a laptop somewhere
7 in the residence. So, we took measures to obtain a search
8 warrant for the apartment and for the laptop in particular,
9 regardless of where it was located.

05:14 10 Q. In addition, to obtaining a search warrant for this hidden
11 file on a laptop, did you also arrange for a forensic computer
12 specialist to be there to extract the file off the laptop?

13 A. Yes. As part of the operation, I discussed before, we had
14 multiple teams. One of the teams was a search team for the
05:14 15 apartment. And there was an interview team a part of it and
16 security and other things like that. But in a case like this,
17 we think we know a lot; but we don't know if, at the last
18 minute, there's something out there that we don't know, the
19 defendant has a co--- you know, someone he's confided in or
05:14 20 another person that may be of harm to us.

21 So, we planned to have a dedicated forensic
22 examiner from the FBI whose sole job was to deal with that
23 laptop. And then we had an additional one to deal with
24 anything else that may be in there that we may or may not have
05:15 25 known about ahead of.

05:15 1 Q. Let me show you what is Exhibit 107, which is the hidden
2 file we referenced that came off the defendant's computer. I'm
3 going to play a portion of it and have you comment after on it.

4 (Tape playing)

05:17 5 BY MR. MCINTYRE:

6 Q. Now, in this portion of the video that the defendant -- or
7 and audio that the defendant made, what did you find of
8 significance in this first portion, specifically in reference
9 to a lot of the symbolism involved?

05:17 10 A. It's about almost an 11-minute video in totality and --

11 THE COURT: What's the cat in the bag?

12 THE WITNESS: Well, your Honor --

13 THE COURT: If you know. I mean, if you know.

14 THE WITNESS: Well, it's "the cat is out of the bag."

05:17 15 He's opening up his secret.

16 THE COURT: Oh, I see.

17 THE WITNESS: That's what I believe. Before that, at
18 the very beginning, there was some -- it was almost a video
19 clip within this video; and that's a known jihadi website that
05:17 20 posts videos all the time. It's the media arm of al-Qaeda and
21 other groups. So, what I see in this is he wants to lay out
22 that there's this video. And it's entitled "For My Wife." You
23 saw all the calligraphy "For My Wife."

24 The cat out of the bag, it wasn't just randomly
05:18 25 placed there. It's the cat's out of the bag, "I'm about to

05:18 1 tell you what's going on."

2 This picture here, just before this, it said
3 "as-sadiqeen," which he mentions in the -- that's the most
4 righteous. He said that throughout this operation to the CHS,
05:18 5 it's -- that's the most righteous. That's who he wants to be a
6 part of.

7 I think, by putting the name superimposed over
8 this picture, he's defining what he means the "as-sadiqeen"
9 are. That's the most righteous.

05:18 10 BY MR. McINTYRE:

11 Q. What's the symbolism of this picture of Islamic -- Islamic
12 fighters praying and their position within the prayer?

13 A. Well, it shows four, I presume, men are praying in the
14 foreground. There's rifles, four rifles visible. A number of
05:19 15 them have RPG rockets on their backpacks. So, they're praying.
16 But what's also symbolic to me is that they're at the front of
17 the prayer. And based on my knowledge of the religion, those
18 at the very front when they deliver the prayers, that's a
19 position -- it's an honor -- an honor to be in the very front.

05:19 20 So, the people in the back would be less significant to whoever
21 is in the front.

22 (Tape playing)

23 BY MR. McINTYRE:

24 Q. Now, can you tell me some things that you thought were
05:21 25 significant in this portion of the videotape, especially in

05:21 1 regard to the pictures and the words that were superimposed
2 over certain pictures during this presentation?

3 A. Right. This -- again, this was meant to be viewed after he
4 left, because he left unannounced to his family. So, it's --
05:21 5 it walks through --

6 THE COURT: When you say "his family," who do you --
7 who is it your position that composes his family?

8 THE WITNESS: Ernestine Johnson, and then he had two
9 young children.

05:21 10 THE COURT: Children.

11 THE WITNESS: Okay. There's pictures, and there's
12 words that come on. And they go --

13 THE COURT: Now, were his two children those -- that
14 brief picture of two youngsters?

05:21 15 THE WITNESS: I believe they were, your Honor. I'm
16 not a hundred percent.

17 THE COURT: Okay.

18 THE WITNESS: There's different words that pop up, and
19 it's a chronology of how they met. For example, Qiran.com,
05:22 20 Q-I-R-A-N.com, was a dating site that I believe they met on.
21 It was the same site that we talked about earlier, where he had
22 a profile name of A_B_Jihad.

23 And then it moved into Belleville, which is
24 Belleville, Illinois. Greyhound, they went by Greyhound to
05:22 25 meet. Prairie View -- it's a symbolism.

0 5 : 2 2 1 And then it talks about Islam. First it shows a
2 picture of Malcolm X. Hijrah, and there's a picture. And
3 then, behind it, there's a picture of Colleen LaRose, who is
4 commonly known as Jihad Jane. She was arrested and I believe
0 5 : 2 2 5 convicted for material support charges and her role in a plot
6 to kill a Danish cartoonist that had portrayed the Prophet
7 Muhammad. The next picture, a picture of Najibullah Zazi being
8 escorted by two FBI agents. He -- what's significant about
9 that, when you see the word "hijrah" over it, it tells me that
0 5 : 2 3 10 the definition to the defendant is it's, after you accept
11 Islam, you make a hijrah. And the two -- he chose the photos
12 to be superimposed are of two arrested terrorists who both, in
13 the course of their case, traveled overseas for various
14 purposes. In the case of Najibullah Zazi, before he was
0 5 : 2 3 15 arrested in a plot to make a bomb in New York, he traveled to
16 Pakistan for training, maybe Afghanistan, as well. I'm not
17 sure.

18 THE DEFENDANT: I object to that.

19 THE COURT: On what grounds, please, sir?

0 5 : 2 3 20 THE DEFENDANT: He's giving his interpretation of
21 something that I created, and it's baseless. He's not basing
22 it --

23 THE COURT: Hold it, hold it, hold it. I'm not going
24 to go into whether it's baseless or not. Sustained as to the
0 5 : 2 3 25 form of the answer.

0 5 : 2 3 1 You may rephrase the question. Sustain the
2 objection. On the grounds, basically, of speculation. Just
3 rephrase it if you would.

4 MR. McINTYRE: Yes, your Honor.

0 5 : 2 4 5 BY MR. McINTYRE:

6 Q. Now, also in this there's a picture -- or the word "jihad,"
7 and there's a picture that's superimposed behind that. Is that
8 correct?

9 A. Yes. It's the --

0 5 : 2 4 10 THE COURT: Hold it, hold it. Don't -- since we had
11 an objection, we're going to go question and answer in that
12 same area.

13 Go on.

14 MR. McINTYRE: Okay.

0 5 : 2 4 15 BY MR. McINTYRE:

16 Q. Was there a picture associated with the term "jihad" on
17 this video?

18 A. Yes.

19 Q. Okay. And who was that picture of?

0 5 : 2 4 20 A. The late Osama bin Laden.

21 Q. Let's move on to the next portion.

22 *(Tape playing)*

23 BY MR. McINTYRE:

24 Q. Let me stop right here.

0 5 : 2 6 25 And during the course of this portion of the

05:26

1 video, the defendant describes going to jail and then meeting
2 someone. Do you have an opinion as to who he's referring to
3 and what he's referring to?

05:26

4 A. I believe he's referring to the CHS at the operation in
5 November 2009 when he was arrested and placed in jail and met
6 the CHS in jail.

05:26

7 Q. Now, during the course of the video, the defendant also
8 said he met a brother who worked for the mujahideen; and
9 associated with that is a picture with the words "AQAP"
10 superimposed over them. Is that correct?

11 A. Yes.

12 Q. Is it your opinion, based on your knowledge of the case,
13 that the brother he's referring to is the confidential source?

14 A. Yes.

05:27

15 Q. And do you know, based on your training and experience, who
16 the three individuals in the picture under the caption "AQAP"
17 are?

18 THE COURT: "Yes" or "no"?

19 THE WITNESS: I don't know all their names, your
20 Honor.

05:27

21 THE COURT: All right, then. Follow it up. You can
22 follow it up. He doesn't know the exact names.

23 MR. McINTYRE: All right.

24 BY MR. McINTYRE:

05:27

25 Q. Not asking whether you know their names or not, do you know

05:27 1 what sort of position they hold within the organization that's
2 known as al-Qaeda in the Arabian Peninsula?

3 A. Yes.

4 Q. What position do these three individuals hold?

05:27 5 A. One is a bomb maker. One is a regional leader. I'm not
6 sure about the gentleman that's off the stage. And, then,
7 another one is, like, an external operations chief at the time.

8 THE COURT: All right. Just for the record, I think
9 he said that "AQAP" stands for, I guess, in English --

05:28 10 THE WITNESS: Al-Qaeda in the Arabian Peninsula.

11 THE COURT: Al-Qaeda in the Arabian Peninsula. Okay.

12 BY MR. MCINTYRE:

13 Q. All right. Let's play another portion.

14 *(Tape playing)*

05:28 15 BY MR. MCINTYRE:

16 Q. And, again, he's talking about a meeting with an
17 individual. And based on your knowledge of the case, who do
18 you think he's referring to that he met in jail?

19 A. The CHS.

05:29 20 Q. All right.

21 *(Tape playing)*

22 BY MR. MCINTYRE:

23 Q. Now, toward the end of this clip, the defendant says, "not
24 just pray for hijrah but pray for victory." What is the
05:31 25 significance that you attach to the photos that are associated

05:31 1 with "hijrah" and "victory" in this creation by the defendant?

2 A. The picture of a plane right before this image, to me means
3 travel overseas in order to obtain victory. And the picture is
4 of someone with a mask, wearing RPG with ammunition across and
05:31 5 looks to me to be possibly a suicide vest, or a satchel.

6 THE COURT: Looks like somebody is carrying some sort
7 of shoulder fired missile, isn't it?

8 THE WITNESS: Yes, sir, your Honor, a rocket propelled
9 grenade.

05:32 10 BY MR. MCINTYRE:

11 Q. Now, other portions of that audio, did you feel like he was
12 referring to or did you form an opinion that he was referring
13 to the source and his meeting with the source and those types
14 of things?

05:32 15 A. Yes.

16 Q. Was there anything else that was significant to you
17 regarding this portion of the video?

18 A. The images with the chess set and the one before that of
19 the numbers that moved around, with the narrative of testing
05:32 20 one another, that corresponded with the whole course of the
21 operation, sending e-mails and codes and not initially trusting
22 one another.

23 Q. All right. Let's play the remainder of this.

24 *(Tape playing)*

05:36 25 BY MR. MCINTYRE:

05:36 1 Q. There's a reference in the video, "If we're not reunited in
2 life, we'll be reunited in heaven." Based on your
3 understanding of the case, what do you think the defendant is
4 referring to in that particular section?

05:36 5 A. If he dies on his journey, in the jihad, that he'll see his
6 family in heaven.

7 Q. And what is the significance of the picture of the --
8 picture of the doors and they're opening up to heaven, in your
9 opinion?

05:36 10 A. I believe it's showing that that's his ultimate
11 destination, is to go --

12 THE DEFENDANT: Object.

13 THE COURT: Sustained.

14 Objection, you say?

05:36 15 THE DEFENDANT: Yeah.

16 THE COURT: Sustained. Uphold the objection.

17 BY MR. MCINTYRE:

18 Q. And there's a portion of the video, near the end, where it
19 says, "Stay tuned." Is that correct?

05:36 20 A. Yes, sir.

21 Q. Now, based on your knowledge of the case, there's also a
22 picture of a refrigerator and reference to a note. Do you know
23 what is being referred to in that particular section?

05:37 24 A. There's -- there was a card found in the kitchen of the
25 defendant's apartment, that had a note and then it had some

05:37 1 e-mail and some passwords, some other information, left behind.

2 Q. Okay. And are you aware --

3 THE COURT: Wait. What were they? Have you been --
4 have you ever been able to find out what they were?

05:37 5 THE WITNESS: They didn't say what they were,
6 specifically what they were to be used for. But I believe --

7 THE COURT: Did you find out what they were? Or do
8 you have a professional opinion based upon your experience in
9 the case?

05:37 10 THE WITNESS: There was a -- one was an e-mail that
11 was created with a password. And I believe that to be, again,
12 another way for the two of them to potentially communicate
13 without anyone else knowing.

14 THE COURT: Okay.

05:37 15 BY MR. MCINTYRE:

16 Q. And do you know whether or not al-Qaeda in the Arabian
17 Peninsula is a designated terrorist organization?

18 A. Yes, sir, it is.

19 THE COURT: Hold it one second.

05:38 20 BY MR. MCINTYRE:

21 Q. And are you aware or not if al-Qaeda in the Arabian
22 Peninsula was a designated terrorist organization at the time
23 of this offense?

24 A. Yes, it was.

05:38 25 THE COURT: Designated by who?

05:38 1 MR. McINTYRE: By the US Department of State, your
2 Honor.

3 THE COURT: Hang on one second.

4 MR. McINTYRE: We did file a motion, your Honor, to
05:38 5 also take judicial notice of --

6 THE COURT: Which was designated -- I'm reading the
7 indictment -- designated by the United States Secretary of
8 State as a foreign terrorist organization pursuant to
9 Section 219 of the Immigration Nationality Act.

05:38 10 You say you have a motion on file?

11 MR. McINTYRE: Yes, your Honor.

12 THE COURT: Again, what's the motion, just for the
13 record?

14 MR. McINTYRE: It's to take judicial notice of the
05:39 15 fact that the organization known as al-Qaeda in the Arabian
16 Peninsula was designated a foreign terrorist organization by
17 the US Department of State on January 19th of 2010. It's
18 contained within our trial brief.

19 THE COURT: All right. Judicial notice is so taken
05:39 20 for purposes of trial.

21 MR. McINTYRE: I would pass the witness, your Honor.

22 THE COURT: All right. Mr. Bujol, they passed the
23 witness. Your witness. Questions, please.

24 By the way, sir, we have about 20 to 25 minutes
05:39 25 for the day -- remainder of the day. So, you have about that

05:39 1 much time; and then you'll pick up tomorrow.

2 THE DEFENDANT: Okay.

3 THE COURT: Oh, yeah.

4 THE DEFENDANT: Okay.

05:39 5 THE COURT: Let's put it this way. The government's
6 case moved along quickly. I assume yours will also. I have no
7 problem with time. If I have a concern, just like I did with
8 them, when I thought it was dragging a little bit, I'm going to
9 tell them. If I think yours is dragging, I'll let you know.

05:40 10 Aside from that, we have no time restraints right now. Okay?

11 So, go right ahead. It's your witness.

12 **CROSS-EXAMINATION**

13 BY THE DEFENDANT:

14 Q. Okay. I want to start first with --

05:40 15 THE COURT: Could you pull that in a little bit, sir?

16 Yeah.

17 BY THE DEFENDANT:

18 Q. I'm going to start first with going back to the tip in 2008
19 that you received about an Abdul Bari. Is that correct?

05:40 20 A. Yes, sir.

21 Q. Okay. When did you receive that tip, approximately?

22 THE COURT: You're talking date wise?

23 THE DEFENDANT: Yes, date wise.

24 THE COURT: Okay. Approximately.

05:40 25 THE WITNESS: Are you asking when I received it or

05:40 1 when the FBI received it?

2 BY THE DEFENDANT:

3 Q. When did you receive it? When did you become aware that it
4 was in your jurisdiction to be taken care of?

05:40 5 A. I received the tip in late July 2008.

6 Q. Late July of 2008?

7 A. Right. It was after some investigation -- I don't know the
8 exact date -- when we determined that one of the parties
9 mentioned in the tip resided in one of the counties that the
05:41 10 Bryan office investigates.

11 Q. Could you repeat that?

12 A. It was after some amount of investigation -- I don't recall
13 the exact date -- that one of the individuals mentioned in the
14 tip resided in one of the counties that my office investigates.

05:41 15 Q. So, someone listed in this tip resided in a county that you
16 have jurisdiction over?

17 A. In my job, I have jurisdiction for these type of charges
18 all over. So, but my office is directed to handle seven
19 counties. So, there were three people mentioned in the tip;
05:41 20 the father and then it mentions sons. One of the sons was in
21 Waller County, which is one of the seven counties that the JTTF
22 I'm on investigates.

23 Q. Well, actually, according to the tip, it says that the
24 father was the actual so-called terrorist who was recruiting
05:42 25 this individual who submitted this tip and his sons were

05:42 1 present at the mosque. It doesn't implicate his sons. It
2 doesn't even mention his sons. The only name mentioned here is
3 the father.

4 THE COURT: Hold it. You can't testify. You can ask
05:42 5 him a question.

6 All right. You got a question. You may answer,
7 please.

8 THE WITNESS: The tip discusses the person tried to
9 recruit the tipster, and it also says that the person that
05:42 10 tried to recruit the tipster was going to send or had sent his
11 sons overseas to receive training. So, after my investigation,
12 I determined that he had at least two sons, one of which was in
13 Waller County.

14 BY THE DEFENDANT:

05:43 15 Q. He was in Waller County at the time of this tip?

16 A. I'm not sure about what -- the time of the tip. But the
17 time that I was looking at the tip, yes.

18 Q. Which would be the end of July 2008?

19 A. Yes.

05:43 20 Q. So, at the end of --

21 THE COURT: Hold it. Wait. Let me mention this.
22 We're not going to go over and over the same thing. You made
23 your point. Okay? You need to keep moving forward. You don't
24 have to repeat his answer. You can follow up on his answer.
05:43 25 All right?

05:43 1 Go right ahead, sir. We'll get this straight.

2 You're doing fine. Go on.

3 BY THE DEFENDANT:

4 Q. According to this --

05:43 5 THE COURT: According to what?

6 THE DEFENDANT: The tip.

7 THE COURT: Okay.

8 BY THE DEFENDANT:

9 Q. It lists an Abdul Bari at an address in Houston, Texas.

05:44 10 A. Yes.

11 Q. 77077, that's what this says?

12 A. I'm not looking at it. So, yes. I mean, I don't know.

13 Q. Is that Harris County or Waller County?

14 A. It's not Waller County. I don't know if it's Harris or

05:44 15 not.

16 Q. But it's not Waller County. So, it's not a county that you
17 have jurisdiction over?

18 THE COURT: Excuse me. Is that -- has anything been
19 filed here relative to this jurisdictional matter?

05:44 20 MR. MCINTYRE: No, your Honor.

21 THE COURT: All right. I'll just take it, you know --
22 I understand the FBI has got it and the case is ongoing. But
23 your point is, sir, that, in effect, the individual may not
24 have been in Waller County. Is that correct?

05:44 25 THE DEFENDANT: The individual listed here.

05:44

1 THE COURT: That's correct.

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. Go on.

4 BY THE DEFENDANT:

05:44

5 Q. This individual wasn't in Waller County?

6 A. Which individual?

7 Q. The individual listed in this tip.

8 THE COURT: The name? The name?

9 THE DEFENDANT: The name Abdul Bari.

05:45

10 THE WITNESS: He was at some points in time during
11 2008 in Waller County, because I surveilled him and watched him
12 in Waller County.

13 BY THE DEFENDANT:

14 Q. You surveilled him?

05:45

15 THE COURT: Personally, you did?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay.

18 BY THE DEFENDANT:

19 Q. Did you surveil anyone else with him?

05:45

20 A. Yes. His son. I believe it was the son's maternal
21 grandmother. Or maybe his paternal grandmother. And there
22 were a couple of other people that were probably family
23 members, and they were on campus.

24 Q. Do you know what they were on the campus for?

05:45

25 A. At that particular day they were in the MSC. They were on

05:45 1 the floor -- which I can't remember if it's second or third --
2 they were at student aid -- or financial aid. Excuse me.

3 THE COURT: "MSC" is?

4 THE WITNESS: It's the student center, I think.

05:45 5 It's --

6 THE COURT: Yeah. Go on. All right.

7 THE WITNESS: It's on the campus.

8 They went around different parking lots. Looks
9 like they may have been looking at dorms. They went over to
05:46 10 the field house, like, the athletic department, near the
11 football field.

12 BY THE DEFENDANT:

13 Q. Would you say that Rafi, who's the son of this person, was
14 attempting to enroll in the college?

05:46 15 A. He -- he applied and was accepted and then eventually
16 enrolled when the fall semester started, which I think was at
17 the very end of August or September of 2008, as a freshman.

18 Q. Okay. So, he actually didn't enroll until that fall. But
19 someone had been using a computer that summer, which is why you
05:47 20 were at Prairie View.

21 A. Yes.

22 Q. That's why you were at Prairie View?

23 A. Yes.

24 Q. Because of some fraudulent computer access?

05:47 25 A. Yes.

05:47 1 Q. Which was what?

2 A. We had a lead from another office, that led us to Coleman
3 Library, as I discussed. And upon our investigation, we
4 determined that Rafi Abdul Bari was on the campus. We were
05:47 5 trying to determine if Rafi Abdul Bari was the person accessed
6 the computer.

7 During that investigation, we determined that
8 Rafi had applied for admission as an architecture student. We
9 also learned from the university that there was an ongoing
05:47 10 investigation that fake or improperly passed administrator
11 passwords were being given out of the architecture department.
12 So, we were operating as if there's a possibility that Rafi was
13 getting on the campus and using that password in order to
14 access Prairie View A & M's computer system.

05:48 15 Q. So, what was the lead from the other office?

16 A. The lead that started it?

17 It was a lead that led us to an IP address at
18 Prairie View A & M, and it had an e-mail address associated
19 with it.

05:48 20 Q. Okay. That's what resulted from the lead. What was the
21 lead?

22 MR. McINTYRE: Your Honor, I object. May I approach
23 just briefly?

24 THE COURT: No.

05:48 25 MR. McINTYRE: Okay.

05:48 1 THE COURT: Sustained. Rephrase the question.

2 BY THE DEFENDANT:

3 Q. How did you obtain the IP address that led you to Prairie
4 View?

05:48 5 MR. McINTYRE: Your Honor, I'm going to object. It's
6 the subject of a previous Court order.

7 THE COURT: Oh, okay. All right. That's right.

8 All right. So, what's your request? That he
9 move on to another subject?

05:48 10 MR. McINTYRE: Yes, your Honor.

11 THE COURT: All right. That's granted.

12 Just move on to a different subject. Or move
13 around it. You know, Mr. Bujol, when I say you can move around
14 it, there are ways that if you need to ask key questions you
05:48 15 can move around that exact question you had. And that's what I
16 mean. All right?

17 So, as to that question, I'll sustain it.

18 BY THE DEFENDANT:

19 Q. When did you -- were you provided pictures of Rafi Abdul
05:49 20 Bari after he enrolled at Prairie View?

21 A. I believe I obtained them before he enrolled and then
22 again -- let me use the right word -- he applied, was accepted,
23 and then enrolled. But before he enrolled, I had pictures.
24 And then, again, after he was accepted, I also had additional
05:49 25 pictures.

05:49 1 Q. Did you also have an address?
2 A. For?
3 Q. Rafi Abdul Bari.
4 A. Multiple addresses.
05:49 5 Q. Multiple addresses?
6 A. Yes.
7 Q. Did you also have a point of contact, a phone number or
8 anything?
9 A. Yes.
05:50 10 Q. Okay. So if you had this person and this information, what
11 prompted further investigation?
12 A. Of Rafi?
13 Q. Yes.
14 A. The tip, we wanted to determine whether Rafi Abdul Bari --
05:50 15 Q. But the tip is about his father, though.
16 A. The way I read the tip is that the father has sons that may
17 travel overseas for the same type of activity as discussed in
18 the tip.
19 Q. Well, the way I read the tip --
05:50 20 THE COURT: Wait. You can't say how you read it.
21 Later on, if you want to argue that, you can. There will be
22 a -- after the case is done, Mr. Bujol, there's summation. And
23 summation is where you can link in your interpretation of what
24 the evidence showed. Right now, we got to go question and
05:51 25 answer.

05:51

1 BY THE DEFENDANT:

2 Q. Continue.

3 A. Can you ask the question again so I remember?

4 THE COURT: No. Next question.

05:51

5 BY THE DEFENDANT:

6 Q. When did you first obtain a warrant for the Abdul_Bari05
7 account?

8 A. December 2008.

9 Q. Okay. When did you first obtain that header and footer
10 information?

05:51

11 A. It was November of 2008.

12 Q. So, at the point of December was when you could actually
13 read the e-mail contents?

14 A. Yes.

05:51

15 Q. So, before -- what about the login information, when did
16 you first get that?

17 A. It would have been in -- sometime in early October, after
18 I'd viewed the Muslim Match in late September.

19 Q. You got the IP correspondence for Abdul_Bari05 after
20 viewing the Muslim Match?

05:52

21 A. Yes.

22 Q. And the issue of -- we'll move forward to al-Awlaki. When
23 did you determine that this account had been in contact with
24 al-Awlaki?

05:53

25 A. Approximately?

05:53 1 MR. MCINTYRE: Your Honor, I'm going to make the same
2 objection in reference to the previous Court order.

3 THE COURT: Sustained. Just work around it,
4 counsel -- Mr. Bujol.

05:53 5 BY THE DEFENDANT:

6 Q. At what point did you realize that the Abdul Bari account
7 was being used by myself?

8 A. In October 31st, 2008, we saw who now I know to be you, the
9 defendant, at the terminal. After investigative steps after
05:54 10 that, I determined that the Abdul Bari account was logged on at
11 the same time you were at that computer. Once I saw the
12 e-mails pursuant to the search warrant, there were pictures of
13 you being sent from that account; and it said "pictures of
14 myself." So, over a series of -- a number of events led me to
05:54 15 believe that was you.

16 Q. And this was after you had viewed the -- what is it? Jihad
17 Fields postings?

18 A. Yes. I looked at the Jihad Fields in September of 2008,
19 same day that I was on the Muslim Match site.

05:54 20 Q. With regard to those postings, the account Abdul_Bari05 was
21 accessed on the dates that are listed on those postings. Is
22 that correct?

23 A. Yes.

24 Q. To your knowledge, are the dates listed on those postings
05:55 25 the same dates that they were posted by the moderator?

05:55

1 A. To my knowledge, the date-time group that was on next to
2 Abdul Bari is the time that they were sent to the moderator.
3 I'm not sure when they were posted. Because by the time I had
4 seen it there were already 22 posts. So, it's a series of --
5 it's a running dialogue.

05:55

6 Q. How do you know when they were sent to the moderator?

7 A. I said "best of my knowledge." When I look at the -- when
8 I look at -- can we pull -- can I look at it again? Can I show
9 you what I am talking about? There's --

05:56

10 THE COURT: Just tell us about it.

11 THE WITNESS: There's a name, and then there's a date
12 and a time that says, "Abdul Bari, date, time." And, then,
13 below it is whatever the comments were. And it's the same
14 throughout there. So, to my knowledge, that's when the
15 moderator received it.

05:56

16 BY THE DEFENDANT:

17 Q. I have a question in that regard, also. Didn't you mention
18 in your search warrant for December of 2008 that you were, in
19 fact, unclear as to when that date -- whether or not that date
20 corresponded to its posting by the moderator?

05:56

21 A. I was at that time. I was unclear.

22 THE COURT: Yes, you were?

23 THE WITNESS: I was unclear in December 2008. Since
24 then, I've done more investigation.

05:56

25 THE COURT: Okay.

05:56

1 BY THE DEFENDANT:

2 Q. Is there anything on that Jihad Fields site that links that
3 post to the account Abdul_Bari05?

4 A. Nothing that I am aware of. I'm not sure if --

05:57

5 THE COURT: Okay. Nothing you're aware of.

6 Next question.

7 By the way, it will move a lot quicker if you
8 answer just the question that's asked.

9 THE WITNESS: Yes, sir.

05:57

10 THE COURT: Okay?

11 BY THE DEFENDANT:

12 Q. Throughout the course of this investigation, did I discuss
13 Jihad Fields postings at any time with the CHS?

14 A. Not that I am aware of.

05:58

15 Q. So, can you be entirely sure that those postings were in
16 fact made by one and the same person?

17 A. No.

18 Q. You've assumed that they were made by me.

19 A. Based on the content, the times, and the -- and what else
20 was going on in e-mails in that same two months.

05:58

21 Q. Is there anything in the content that is specific to Barry
22 Bujol and not any other American Muslim?

23 A. There's some specific things in there discussed about
24 learning Arabic and wanting to travel. Those are things that I
25 know you've discussed on multiple occasions.

05:59

05:59

1

Is your name in there?

2

Q. Is Barry the only person in America that wants to learn Arabic?

4

MR. McINTYRE: Objection, argumentative.

05:59

5

THE COURT: Sustained. Rephrase it, please.

6

BY THE DEFENDANT:

7

Q. How many Muslims would you say --

8

THE COURT: How many what, sir?

9

BY THE DEFENDANT:

05:59

10

Q. How many people that -- in America are indigenous Muslims or people that are born in the United States that are Muslim, approximately?

13

THE COURT: Do you know?

14

MR. McINTYRE: Objection.

05:59

15

THE COURT: Do you know?

16

THE WITNESS: No, I don't know.

17

THE COURT: Okay.

18

BY THE DEFENDANT:

19

Q. Is it more than one?

05:59

20

MR. McINTYRE: Objection, speculation.

21

THE COURT: Overruled.

22

More than one, right?

23

THE WITNESS: Yes.

24

THE COURT: Okay.

06:00

25

BY THE DEFENDANT:

06:00 1 Q. Now, going back to the tip for a minute, you mentioned the
2 tip containing Abdul Bari. He had a son named Rafi Abdul Bari.
3 I've been associated with the name Abdul Bari. That's three
4 Abdul Baris on one college campus in one city in one state in
06:00 5 this nation.

6 THE COURT: The question, please.

7 BY THE DEFENDANT:

8 Q. Could that Abdul Bari have been another one on the Jihad
9 Fields posts?

06:00 10 A. Yes. Anybody using that name could have put "Abdul Bari"
11 on that post.

12 Q. So, again, what is specific in that post that makes you
13 think it's Barry Bujol and not someone else?

14 A. Again, there's things contained in the questions, about a
06:01 15 specific course of action -- wanting to travel, learning
16 Arabic -- that at the time, what I knew about the person that I
17 determined to be you, that was exactly what that person was
18 talking about. It's very similar to what was sent to Anwar
19 Awlaki within a few days of that same posting. That's one of
06:01 20 the specific things that led me to believe that you were the
21 person that posted --

22 Q. This site discussed --

23 MR. McINTYRE: Your Honor, I would request that he let
24 the witness answer the question before he asks --

06:01 25 THE COURT: Have you finished the question?

06:01

1

THE WITNESS: Yes.

2

THE COURT: All right. He's answered the question.

3

Next question, please.

4

06:01

5

By the way, I'm going to adjourn in about three minutes, Mr. Bujol. So, you know, you can wrap it or leave -- you certainly can pick it up any time tomorrow.

6

7

Go on.

8

BY THE DEFENDANT:

9

Q. This Jihad Fields site dealt with, as you labeled it, a

06:01

10

call to arms. Is that correct?

11

A. That's the way I read it.

12

Q. So, it dealt with numerous countries?

13

A. Yes.

14

Q. Which -- could it have been people on that site were not -- could be talking about any variety of locations?

06:02

15

16

MR. McINTYRE: Objection, calls for speculation.

17

THE COURT: Overruled.

18

THE WITNESS: The article, in fact, talks about a

19

number of countries. So, people asking questions could be

06:02

20

asking about any of those countries, sir, or nothing related to it at all.

21

22

BY THE DEFENDANT:

23

Q. And you referred to a person speaking English and wanting to learn Arabic?

24

06:02

25

A. Yes.

06:02 1 Q. If a person speaks English, does that automatically make
2 them African-American?

3 A. No.

4 Q. If a person wants to learn Arabic, does that automatically
06:03 5 make them a convert?

6 A. No.

7 Q. If a person wants to learn Arabic, does that automatically
8 make them a United States citizen?

9 A. No.

06:03 10 THE COURT: Mr. Bujol, how about let's break at this
11 time; and you can pick it up tomorrow.

12 It's now almost 6:05. The case is moving along.
13 I want to thank both sides for moving it along. We'll see you
14 tomorrow, ready to resume -- tomorrow we get on our regular
06:03 15 schedule. See you at 10:00 a.m., ready to roll. So, see you
16 tomorrow morning.

17 *(Proceedings recessed for evening)*

18 * * * * *

19 COURT REPORTER'S CERTIFICATION

20 I certify that the foregoing is a correct transcript from
21 the record of proceedings in the above-entitled cause.

22 Date: April 4, 2012

23
24 /s/ Cheryll K. Barron

25 Cheryll K. Barron, CSR, CMR, FCRR
Official Court Reporter